

# CENTRAL EMPOWERED COMMITTEE

## REPORT OF CEC REGARDING SIX IRON ORE MINING LEASES IN BELLARY RESERVED FOREST IN DISTRICT ANANTPUR, ANDHRA PRADESH.

The SLP (C) Nos.7366-7367 of 2010 (from the Judgment and Order dated 26.2.2010 in Writ Petition No. 25910/2009 and Writ Petition No. 26083/2009 of the Hon'ble High Court of Andhra Pradesh at Hyderabad) filed by the Government of Andhra Pradesh & Others and Writ Petition (Civil) No.562 of 2009 filed by the Samaj Parivartan Samudai and Others were heard by this Hon'ble Court on 19<sup>th</sup> November, 2010 when the following order was passed:

*"Pending further orders, we hereby direct the Central Empowered Committee ('CEC', for short) to submit it's Report on the subject-matter of pending S.L.P. (C) Nos. 7366-67 of 2010 and W.P. (C) No. 562 of 2009 after hearing the affected parties. In short, we want to know whether mining is going on in the forest area in the Bellary region restricted to six mining leases granted in favour of M/s. Bellary Iron Ore Pvt. Ltd., M/s. Mahabaleswarappa & Sons, M/s Ananthapur Mining Corporation and M/s. Obulapuram Mining Company Pvt. Ltd. in the first instance. The affected*

*parties will submit their representations to the CEC by 29<sup>th</sup> November, 2010. On receiving the representations, the CEC will hear the parties concerned on or before 16<sup>th</sup> December, 2010 and will submit it's Report to this Court by 5th January, 2011.*

*It is made clear that hearing before the CEC will be confined to the afore-said Lessees, for the present.*

*The Registry is directed to issue notice to all the respondents in W. P. (C) No. 562 of 2009.*

*Dasti service, in addition, is permitted.*

*Place these matters on 7<sup>th</sup> January, 2011, subject to over-night part-heard, if any.*

*The Registry is also directed to upload this Order on the Website".*

2. This Report is being filed by the CEC pursuant to the above order of this Hon'ble Court after examining the matter during the hearings held before the CEC on 15<sup>th</sup> December, 2010 and 29<sup>th</sup> December, 2010, site visit by Mr. M.K. Jiwrajka, Member Secretary, CEC and Mr. Mahendra Vyas, Member, CEC along with Shri A.D.N. Rao, Learned Amicus Curiae between 21<sup>st</sup> to 23<sup>rd</sup> December, 2010 and after considering the representations received from the respective

mining lease holders and the details/documents received from the State of Andhra Pradesh. The principal issue examined in the present Report relates to the six iron ore mining leases granted in the Obulapuram Reserved Forest falling in Andhra Pradesh and the various illegalities and the irregularities in respect thereof.

## **BACKGROUND**

3. The Bellary Reserved Forest has been constituted vide Notification dated 12.5.1890 issued under Section 16 of the Madras Forest Act, 1882. The said Reserved Forest falls in the States of Andhra Pradesh and Karnataka. In Andhra Pradesh, the Reserved Forest includes the border villages of Obulapuram and H. Siddhapuram, District Anantapur. In Andhra Pradesh the following six iron ore mining leases have been sanctioned in the said Reserved Forest area:

### **27.12 hectares of mining leases granted in favour of Bellary Iron Ore Private Ltd (M/s BIOP)**

4. Iron ore mining lease over an area of 300 acres in Survey No.1 (Part) of the H. Siddhapuram Village, District Anantapur was granted by the composite Madras Government on 21.8.1952 in favour of Shri T. Thimmappa. The lease area was reduced to 110 acres vide Andhra Pradesh Government Memo dated 8.10.1956 and the lease

deed was executed on 26.12.1956 for a period of 20 years (valid up to 25.12.1976). The State of Andhra Pradesh vide order dated 4.9.1962 permitted the lease to be transferred in favour of M/s BIOP (**ANNEXURE R-1**). The State Government vide order dated 1.9.1997 granted the first renewal for a period of 20 years (**ANNEXURE R-2**) and the renewal lease deed was executed on 14.10.1977. The first renewal lease period expired on 25.12.1996. The State Government vide order dated 11.2.2000 granted the second renewal of the mining lease over an area of 27.12 hectares (**ANNEXURE R-3**). The period commences from 26.12.1996 and is valid up to 25.12.2016. Prior to this, MoEF, on the proposal sent by the Government of Andhra Pradesh vide letter dated 4.4.1997 (**ANNEXURE R-4**) vide order dated 19/26.5.1998 granted approval under the Forest (Conservation) Act, 1980 in favour of M/s BIOP for the use of 27.12 hectares of forest land for renewal of the mining lease (**ANNEXURE-R-5**). Thereafter the Government of Andhra Pradesh vide order dated 26.6.1998 granted permission for the diversion of 27.12 hectares of forest land for the renewal of the said mining lease (**ANNEXURE-R-6**).

5. The letter dated 11.2.1964 of the District Collector, Anantapur (**ANNEXURE-R-7**) indicates that on a representation by M/s BIOP, the District Surveyor,

Anantapur was deputed to survey the lease area. The total area was computed to be 96 acres as against the extent of 110 acres as stated in the lease deed. The area was got re-surveyed by the Director of Mines & Geology who would that it was 102.65 acres excluding triangular buffer zone. It was recommended by the Director of Mines & Geology that the triangular bit and the area left as buffer measuring 2.52 acres may be included. The Government of Andhra Pradesh vide order dated 11.11.1965 (refer Annexure R-1 to this Report) decided that the portion measuring 0.99 acre and 1.53 acres may be included in the leased area.

6. The following are the relevant mining lease sketches pertaining to M/s BIOP:

- (i) the mining lease sketch of 110 acres of area of M/s BIOP (undated) - **(ANNEXURE R-8)**;
- (ii) the plan showing demarcated lease area and buffer area of M/s. BIOP dated 9.7.1964 - **(ANNEXURE R-9)**;
- (iii) the revised mining lease sketch of M/s BIOP (refer Government of Andhra Pradesh order dated 11.11.1965) - **(ANNEXURE-R-10)** and sketch issued by Department of Land Records **(ANNEXURE-R-10(A))**;

- (iv) the mining lease sketch giving (a) total mining lease area, (b) area to be surrendered and (c) area to be retained, prepared by M/s. BIOP/Forest Department at the time of seeking approval under the FC Act – **ANNEXURE-R-11(COLLY)**;
  
- (v) the mining lease sketch of M/s. BIOP showing 27.12 hectares of area (as approved under the FC Act) – **ANNEXURE-R-12**;
  
- (vi) the topo sheet showing the boundaries of the BIOP mining lease sent by Andhra Pradesh Forest Department along with the proposal for seeking approval under the FC Act – **ANNEXURE-R- 13.**

**Mining lease of 25.98 hectares of Obulapuram Mining Company Private Ltd (M/s OMC) -**

7. The State of Andhra Pradesh vide order dated 10.9.1964 granted mining lease over an extent of 547.62 acres in Survey No.1 (Part) of village Obulapuram, District Anantpur in favour of Shri G. Ramachandra Reddy for a period of 20 years – **ANNEXURE-R-14.**

8. The mining lease was executed on 15.12.1964 and was valid up to 14.12.1984. Mr. G. Ramachandra Reddy expired on 23.2.1972. His son Shri G. Rammohan Reddy was, vide District Collector, Anantapur's proceedings dated 5.4.1972, declared as legal heir for the said lease. Shri G. Rammohan Reddy filed application for the first renewal of the mining lease on 31.10.1983 (within the stipulated time provided under the Mineral Conservation Rules, 1960). The Government of Andhra Pradesh (Forest Department), after obtaining approval of the MoEF under the Forest (Conservation) Act, 1980, granted permission vide order dated 21.8.1995 for the diversion of 25.98 hectares of forest land for renewal of mining lease for a period of 10 years (**ANNEXURE-R-15**). The date from which the above approval was valid was not mentioned in the said letter. Thereafter, the Government of Andhra Pradesh (Forest Department) vide Memo dated 8.10.1996 decided that the actual period of 10 years of renewal of lease granted by the said order dated 21.8.1995 comes into effect from the actual date of commencement of the operation by the lessee (**ANNEXURE-R-16**). From the above letter it is seen that the PCCF, Andhra Pradesh Forest Department in his letter dated 22.8.1996 had taken the stand that, since the renewal implies from the date of expiry of the lease, the effect of the renewal will be in force from 14.12.1984 and that if renewal

for a further period is required, the order of Government of India may have to be obtained. Thereafter the Government of Andhra Pradesh, Industry & Commerce Department vide Government order dated 10.12.1996 sanctioned the first renewal of mining lease over 64.20 acres (25.98 hectares) for a period of 20 years with effect from 14.12.1984 i.e. up to 13.12.2004 (**ANNEXURE-R-17**). Before that, the Government of India, Ministry of Mines, vide letter dated 28.1.1996 conveyed their approval under Section 8(2) of the MMDR Act for the first renewal of the mining lease for a period of 20 years with effect from 14.12.1984. The renewal lease deed was executed on 26.4.1997 for a period of 20 years with effect from 14.12.1984 to 13.12.2004 and thereafter the lessee was permitted to commence the mining operations (**ANNEXURE-R-18**).

9. After the expiry of the mining lease period in 1984, a number of court cases were filed before the Hon'ble High Court of Andhra Pradesh by the lessee and a writ appeal by the State Government. The Hon'ble High Court of Andhra Pradesh passed orders dated 29.5.1985 and 13.6.1985 in WP MP No. 7412 of 1985 in WP No. 5433 of 1985, order dated 8.12.1988 in WP MP 2300/1988 in WP No. 1896/1988, order dated 18.9.89 in WP No. 18196/1988 and order dated 23.10.1990 in WA MP No. 2667/1989 and WA



MP No. 375 of 1990 in WA No.1690/89 collectively enclosed at **ANNEXURE-R-19 (Colly)** to this Report. Pursuant to the directions passed from time to time by the Hon'ble High Court of Andhra Pradesh the mining operations were continued from 1984 to 31.3.1994. The year-wise details of the mineral production and dispatch, as provided by the State of Andhra Pradesh are given in **ANNEXURE-R-20** to this Report.

10. The said mining lease for the unexpired period of the lease up to 13.12.2004 was permitted by the Government of Andhra Pradesh vide order dated 18.2.2002 to be transferred in favour of M/s Obulapuram Mining Company Ltd. (M/s OMC) (**ANNEXURE-R-21**). The transfer of the mining lease deed was executed on 7.5.2002.

11. M/s OMC made a representation dated 18.5.2004 that the renewed mining lease period of 20 years should be reckoned with effect from 26.4.1997 (date of execution of renewal lease deed) to 25.4.2017 instead of with effect from 14.12.1984 to 13.12.2004. The Government of Andhra Pradesh Industries & Commerce Department vide order dated 10.9.2004 issued orders to reckon the period of first renewal of the said mining lease from the date of execution of the lease deed i.e. with effect from 26.4.1997 subject to obtaining FC Act approval for the remaining period and also

subject to the fulfillment of the other conditions as per MM (D&R) Act, 1957 and Rules thereunder (**ANNEXURE R-22**).

A copy of the note sheet of the State of Andhra Pradesh and the other relevant correspondence in this regard which was provided to the CEC on its request by the State of Andhra Pradesh is enclosed at **ANNEXURE R-23(COLLY)** to this Report.

12. Copies of the orders of the Hon'ble High Court and orders passed by the State Government in some of the other matters are collectively enclosed at **ANNEXURE-R-24 (COLLY)** to this Report.

13. As per the file noting, the approval has been granted presuming that the mining operations might not have taken place in the absence of forest clearance (whereas actually the mine has operated between 1984 to 1997). (Till Section 8(3) of MM(D&R) Act, 1957, was amended with effect from 20.12.1999, the renewal of the mining lease of iron ore required permission of the Central Government. Accordingly, the permission of the Central Government was sought and granted for the first renewal vide Ministry of Mines letter dated 28.1.1996). However, before extending and reckoning the lease period from 24.6.1997, the revised approval of the Central Government was not obtained.

14. Based on the State Government's letters dated 4.4.2007 and 28.6.2007, the MoEF vide letter dated 27.7.2007 granted permission under the Forest (Conservation) Act for extraction of iron ore in favour of M/s OMC for a period of 10 years with effect from 19.7.2005 (**ANNEXURE-R-25**). On a representation dated 17.8.2007 made by M/s OMC, the MoEF vide letter dated 6.11.2007 granted permission for the extension of the lease period up to 25.4.2017 (**ANNEXURE-R-26**). It appears that no recommendation from the State of Andhra Pradesh was insisted upon or sought by the MoEF before taking the above decision. Thereafter the Government of Andhra Pradesh (Forest Department) vide order dated 12.2.2008 granted approval for the extension of the lease period up to 25.4.2017 (**ANNEXURE-R-27**).

15. The following relevant mining lease sketches of M/s OMC (25.98 ha.) are enclosed:

- i) mining lease sketch dated 21.10.1963 of the area applied for – **ANNEXURE R-28**;
- ii) mining lease sketch showing the original lease period and the area applied for renewal (countersigned by the Conservator of Forest on 31.7.1991) – **ANNEXURE-R-29(COLLY)**;

- iii) topo sheet showing location of the mining lease (sent along with the proposal for seeking approval under the FC Act) – **(ANNEXURE-R-30)**;
- iv) topo sheet showing location of the mining lease, forest boundary, State boundary of OMC countersigned by Conservator of Forest on 16.3.2007 – **(ANNEXURE R-31)**;
- (v) mining lease sketch showing item-wise break up of the forest area (countersigned by the Conservator of Forest on 19.3.2007) – **(ANNEXURE-R-32(COLLY))**;
- (vi) mining lease sketch showing the safety zone along the boundary line on the northern side and southern side - **(ANNEXURE R-33)**;

**Mining lease of M/s OMC Private Ltd. (39.50 hectares)**

16. M/s OMC applied on 2.11.2009 for grant of mining lease over 39.50 hectares. The Government of India vide order dated 5.10.2006 granted approval under the Forest (Conservation) Act for diversion of 39.50 hectares of forest land in Compartment No.695 of Bellary Reserve Forest for mining of iron ore for a period of 20 years in favour of M/s

OMC, subject to certain conditions (**ANNEXURE-R-34**). The Government of Andhra Pradesh (Forest Department) vide order dated 7.10.2006 granted permission to the PCCF, Andhra Pradesh for diversion of the said forest land for mining of iron ore for a period of 20 years (**ANNEXURE- R-35**). The Government of India, Ministry of Mines, granted permission vide letter dated 25.5.2007 under Section 5 (1) of the MM (D&R) Act, 1957 for grant of mining leases and thereafter Government of Andhra Pradesh, Industries & Commerce Department, vide order date 18.6.2007 granted the mining lease in favour of M/s OMC for a period of 20 years – (**ANNEXURE-R-36**). The lease deed was executed on 19.6.2007. Copy of the sketch of the lease area enclosed with the executed lease deed is enclosed at **ANNEXURE-R-37** to this Report. The toposheet showing location of the mining lease areas (applied), forest compartments and inter-State boundaries (sent along with the proposal for seeking approval under the FC Act) is enclosed at **ANNEXURE-R-38** to this Report. The sketch of the mining lease area applied for and approved under the FC Act is enclosed at **ANNEXURE-R-39**) to this Report.

### **Mining lease of M/s OMC - 68.50 hectares**

17. M/s OMC applied for grant of mining lease over an extent of 93.520 hectares on 28.4.2004. Out of 30

applications received for grant of the mining leases, the application of M/s OMC emerged as fit application under Section 11 of the MM(D&R) Act, 1957 (as per the information given by the State of Andhra Pradesh). It was considered to grant mining lease over an extent of 68.5 hectares to M/s OMC and the balance 25 hectares was considered for grant in favour of M/s. APMDC. The permission under the MM(D&R) Act, 1957 was granted by the Government of India, Ministry of Mines vide letter dated 25.5.2007. Earlier the MoEF, on a proposal dated 18.4.2006 moved by the Government of Andhra Pradesh (Forest Department), vide letter dated 16.6.2006 granted "In Principle Approval" for diversion of 68.50 hectares of forest land in favour of M/s OMC subject to certain conditions (**ANNEXURE-R-40**) and formal approval vide letter dated 8.1.2007. The Government of Andhra Pradesh (Forest Department) vide order dated 10.1.2007 granted permission for diversion of the said forest land for iron ore mining in favour of M/s OMC (**ANNEXURE-R-41**). The mining lease has been granted by the Government of Andhra Pradesh vide order dated 18.6.2007 (**ANNEXURE- R-42**). The mining lease deed has been executed on 19.6.2007.

18. Copies of the following lease sketches area are enclosed:

- i) a copy of the lease sketch of 68.50 hectares countersigned by Director, Mines and enclosed with the mining lease deed – **ANNEXURE-R-43**;
- ii) a copy of the lease sketch prepared by M/s OMC and countersigned by the officers of the Forest Department wherein the area applied for mining is shown to be 66 hectares and for approach road 2.50 hectares totalling to 68.50 hectares – **ANNEXURE-R-44**;
- iii) the topo-sheet showing the location of the mining lease area, roads, approach roads, State boundary, Compartment Nos. (enclosed with the proposal for seeking approval under the FC Act) **(ANNEXURE-R-45)**.

**Mining lease held by Anantapur Mining Corporation Ltd. (M/s AMC) for 6.50 hectares**

19. As per the information provided by the State of Andhra Pradesh (Mining Department), the mining lease, by Government order dated 5.11.1952, was granted over an extent of 280 acres in Survey No.1(P) of village Obulapuram for a period of 15 years in favour of Shri M. Kondanaramul Reddy. The mining lease deed was executed on 27.1.1956. Vide Government order dated 13.11.1961 the mining lease

deed was permitted to be transferred in favour of M/s OMC for the unexpired portion of the lease period. The first renewal was granted for a period of 15 years with effect from 27.1.1971 vide Government order dated 16.6.1971 (**ANNEXURE-R-46**) and renewal deed was executed on 2.8.1971. After expiry of the renewed mining lease period, M/s OMC as per the Hon'ble High Court's orders in WP MP No.784/1986 in WP No.601/1986 (**ANNEXURE-R-47**) continued mining operations. The mining operations were stopped from 29.1.1990 as per the Hon'ble High Court's order dated 2.12.1988 in WP No.601/1986 (**ANNEXURE-R-48**). The application for the second renewal of mining lease was filed on 22.2.1985. The Government of India vide order dated 1.1.1986 allowed the revision petition filed against the deemed rejection. The State of Andhra Pradesh vide order dated 10.7.2006 granted the second renewal of mining lease over an extent of 6.50 hectares for a period of 20 years with effect from 19.8.2003 (**ANNEXURE-R-49**) and the renewal lease deed was executed on 18.8.2006. Earlier, the approval under the FC Act for diversion of 6.5 hectares of the forest land for renewal of the mining lease was granted by the MoEF vide order dated 19.8.2003 – **ANNEXURE-R-50** and by the State of Andhra Pradesh (Forest Department) vide order dated 24.10.2003 – **ANNEXURE-R-51**.



20. The copy of the mining lease sketch of 113.30 hectares (280 acres) is enclosed at **ANNEXURE-R-52** to this Report. The copy of the lease sketch of 6.5 ha., filed at the time of seeking approval under the FC Act, is enclosed at **ANNEXURE-R-53** to this Report. The lease sketch showing the original lease area of 113.30 hectares (280 acres), surrendered area of 106.80 hectares and the area proposed for renewal under the FC Act (6.50 hectares) is enclosed at **ANNEXURE-R-54** to this Report.

**Mining lease of Y. Mahabaleswarappa and Sons (M/s YMS) (20.24 hectares)**

21. The Government of Andhra Pradesh, Industries & Commerce Department vide order dated 16.2.1976 granted to M/s YMS prospecting licences for iron ore over an extent of 150 acres of land in Survey No.1/P in Village H. Siddhapuram for a period of 20 years. (**ANNEXURE-R-55**). M/s YMS were sanctioned the mining lease for 150 acres vide Government of Andhra Pradesh, Industries & Commerce Department order dated 1.12.1977 (**ANNEXURE-R-56**). This was done after obtaining prior concurrence from the Government of India.

22. The mining lease deed was executed on 12.1.1978 and the 20 years lease period expired on 11.1.1998. The approval under the Forest (Conservation) Act for diversion of

20,24 hectares of forest land for renewal of mining lease for iron ore in favour M/s YMS was granted by the MoEF vide order dated 11/12.11.1999 (**ANNEXURE-R-57**) and by the Government of Andhra Pradesh Forest Department vide order dated 2.12.1999 (**ANNEXURE-R-58**). The Government of Andhra Pradesh, Industries & Commerce Department, vide order dated 8.3.2001 granted sanction for the first renewal of mining lease for iron ore over an extent of 20.240 hectares in favour of M/s YMS for a period of 20 years with effect from 12.1.1998 (**ANNEXURE R-59**) and the mining lease deed has been executed on 19.7.2001.

23. A copy of the lease sketch of 150 acres of area of M/s YMS showing the area applied for and which includes distance of one of its corner from the GTS is enclosed at **ANNEXURE-R-60** this Report. A copy of the lease sketch of M/s YMS showing original lease area, area to be surrendered and the area to be retained (along with the location of the GT Station from one of its corner) is enclosed at **ANNEXURE-R-61(COLLY)** to this Report.

**Report of the Committee on Survey carried out with reference to village boundaries between Obulapuram and H. Siddapuram**

24. During January, 2008, M/s BIOP made a complaint that M/s OMC has encroached into his lease area in Village

H. Siddapuram. Under the supervision and direction of the Secretary, Industry & Commerce Department, Government of Andhra Pradesh, a Committee comprising of officers from Forest Department and Survey & Land Record Department demarcated on the ground the village boundary between the villages Obulapuram and H. Siddapuram and thereafter the lease boundaries of M/s BIOP and M/s OMC (25.98 hectares) were determined by the said Committee. A copy of the Final Report dated 17.3.2008 of the said Committee along with the minutes of the meeting held earlier on 14.2.2008 by the Secretary, Industry & Commerce Department and the sketch showing the combined lease sketches of the five leases prepared by the DFO Anantpur is enclosed at **ANNEXURE-R-62 (COLLY)** to this Report. The said Committee inter alia observed that M/s BIOP has encroached to the extent of 2.74 hectares of area and that the GT Station falls to the left of the inter-village boundary.

25. Subsequently, pursuant to the Government of Andhra Pradesh Forest Department Memo dated 6.11.2009, the Principal Chief Conservator of Forest, Andhra Pradesh Forest Department vide letter dated 6.11.2009, constituted a Three-Member Committee under the Chairmanship of Shri C. Sami Reddy, Special Principal Chief Conservator of Forest (Vigilance) to enquire into the alleged irregularity in

the mining operations in the various mining leases. A copy of the Report dated 20.11.2009 filed by the said Committee (without enclosures) is enclosed at **ANNEXURE-R-63** to this Report. In the said Report, a number of observations regarding the inter-village boundary determined by the Survey Committee, mining leases boundaries, illegal mining etc. have been made:

### **Common Boundary Agreement between various mining lease holders**

26. The Department of Mines Safety, Government of India issues permission under Regulation 113(3) of Mines & Metalliferous Regulations, 1961 to allow the mining in the common boundary when the mining leases occur in cluster having common lease boundaries based on the joint application and joint survey plan showing the common boundaries of the leases. As per the information provided by the Government of Andhra Pradesh, Department of Mines & Geology to the CEC vide letters dated 31.12.2010 and 4.1.2011 (**ANNEXURE R-64(COLLY)**) the permissions have been granted by the Department of Mines Safety to work in the common boundary between (a) M/s BIOP & M/s OMC (25.98 ha.), (b) M/s YMS and M/s BIOP and (c) M/s OMC (25.98 hectares) and M/s OMC (39.50 hectares). It is seen that in the Joint Survey Plan of M/s BIOP and M/s OMC, the

mining lease area of M/s BIOP and the mining lease of M/s OMC share a common boundary. While the mining lease area of M/s BIOP is as per the approved mining lease sketch, the mining lease sketch of M/s OMC, in the common boundary materially differs from the approved lease sketch.

### **Reports of the Composite Survey Committee**

27. Pursuant to this Hon'ble Court's order dated 22.3.2010 in SLP No(s) 7366-7367 of 2010 filed by the Government of Andhra Pradesh and others, a Composite Survey Committee under the Chairmanship of Major General A.P. Pada, Additional Surveyor General with representatives of the MoEF, Mining Department, Forest Department and Revenue Department of the State of Andhra Pradesh has been constituted to survey and demarcate the boundaries of the six iron ore mining leases in District Anantapur, Andhra Pradesh. The Composite Survey Committee has filed Report (Interim) dated 6.10.2010, Report dated 20.4.2010 and Report dated 9.6.2010 before this Hon'ble Court. Copies of these Reports are collectively enclosed at **ANNEXURE-R-65** (**COLLY**) to this Report.

**Report regarding the location showing formation of illegal roads and over-burdened dumps outside the lease area and formed mining benches formed after**

**inspection of Three Member Forest Committee in M/s OMC (68.5 hectares)**

28. On the request made by the CEC during the site visit, the Government of Andhra Pradesh (Forest Department) vide letter dated 28.12.2010 has provided the following sketches/information:

- i) sketch showing the illegal over-burdened dump outside the lease areas of M/s OMC (25.98 hectares);
- ii) sketch showing the location of the illegal over-burdened dump outside the lease areas of M/s BIOP;
- iii) sketch showing location of the illegal over-burdened dumps outside the mining lease area of M/s YMS;
- iv) sketch showing the illegal roads and area covered by forming benches in M/s OMC (68.50 hectares);
- v) photographs of illegal roads, illegal over-burdened dump and formation of benches formed in M/s OMC (68.50 hectares) after Three Man Committee Report;

A copy of the letter dated 28.12.2010 of the Special Chief Secretary, Government of Andhra Pradesh Forest Department along with the above lease sketches / photographs is enclosed at **ANNEXURE-R-66** to this Report.

29. On the request of the CEC, the Director, Mines & Geology, Government of Andhra Pradesh vide letter dated 31.12.2010 has provided the details of the work done in M/s OMC lease (68.50 hectares) during different times along with the photographs (**ANNEXURE R-67**). In the said Report it has been stated that the leased area was an absolutely flat area in November, 2009 and had some road formation as well as bench formation in June-September, 2010, which continued in the same form on 22.10.2010.

#### **Determination of inter-State Boundary between Andhra Pradesh and Karnataka in Bellary Reserved Forest**

30. An exercise has been undertaken by the Members of the official Committee constituted by the Governments of Andhra Pradesh and Karnataka in determining the inter-State boundary between Andhra Pradesh and Karnataka in Bellary Reserved Forest. A copy of the note received from Shri Deepak Sharma, Additional Principal Chief Conservator of Forest (EWPFRT), Bangalore who has been nominated by the Chief Secretary, Karnataka in the official committee is

enclosed at **ANNEXURE-R-68** to this Report. Based on the undisputed control points identified in the area geo-referenced map of Bellary Reserved Forest has been prepared. A hand copy (printed copy) of the same, received by the CEC through e-mail from Shri Krishnamoorthy Gopal, Joint Director, Land Records, SSTI, Mysore (another Member nominated by the Chief Secretary, Karnataka in the Official Committee), is enclosed at **ANNEXURE-R-69** to this Report. The said map shows the inter-state boundary between Andhra Pradesh and Karnataka, location of the GT Station and also the inter-village boundary between the villages H. Siddapuram and Obulapuram. A part of the said map on a scale of 1:7920 (the scale used in the original reserved forest map) showing the area in and around the mining leases is enclosed at **ANNEXURE-R-70** to this Report. The above map overlaid on Google Earth Image is enclosed at **ANNEXURE-R-71** to this Report.

### **Location of Mining Leases**

31. A map showing the location of mining lease of Shri G. Ramachandra Reddy (547.62 acres) and renewed lease of M/s OMC (25.98 hectares), as per the lease sketch and without taking into consideration the bearings recorded in the lease sketch is enclosed at **ANNEXURE-R-72** to this Report. The above map has been prepared by scanning the original



lease sketch, digitizing it and Geo referencing it with reference to the inter-village boundary and the inter-State boundary. It may be seen that the above geo referred lease sketch lies below the inter-State boundary (as shown in the geo-referenced reserved forest map). The location of the above mining lease, superimposed on the Google Earth Image, is shown in the map which is enclosed at **ANNEXURE-R-73** to this Report.

32. A map showing the comparative location of lease sketches of M/s BIOP (with reference to GT Station, M/s YMS (with reference to GT Station) and M/s OMC (with reference to bearings and distances given in the lease sketch) and another sketch of M/s OMC with reference to the lease sketch map without taking the bearings into consideration is enclosed at **ANNEXURE-R-74** to this Report. A map showing the location of the lease sketches of M/s BIOP, M/s YMS, M/s OMC (first sketch - geo referred sketch without taking bearing into consideration) and M/s OMC (second sketch - as per bearings and distances given in the lease sketch and superimposed on the inter-State boundary) is enclosed at **ANNEXURE-R-75** to this Report. The above map also depicts the common area between M/s BIOP and first sketch of M/s OMC (in yellow colour) and

between M/s YMS and the first sketch of M/s OMC (in pink colour).

## **OBSERVATIONS AND RECOMMENDATIONS**

33. After careful examination of the various documents / maps referred to above and after considering the submissions made by the respective mining lease holders, the petitioners and the State of Andhra Pradesh (Forest Department & Industry & Commerce Department), observations of the CEC in respect of six mining leases in Bellary Reserved Forest in District Anantapur, Andhra Pradesh are given in the subsequent paragraphs.

34. The Bellary Reserved Forest has been notified on 12.5.1890 under Section 16 of the Madras Forest Act, 1882 and extends over both in the State of Andhra Pradesh and the State of Karnataka. The inter-State boundary of the States of Andhra Pradesh and Karnataka passes through this reserved forest, almost in the middle, from southern west to east. In Andhra Pradesh, the Reserved Forest includes the border villages of Obulapuram and H. Siddapuram of District Anantapur.

35. Following six iron ore mining leases exist in the Bellary Reserved Forest falling in villages of H. Siddapuram and Obulapuram.

Sr. No	Name of Lessee	Area in Ha.	Remarks
1.	Bellary Iron Ore Pvt. Ltd. (M/s BIOP)	27.12	Originally lease granted over an area of 300 acres on 21.8.1952 in favour of Shri T. Thammappa. The lease area was reduced to 110 acres vide Andhra Pradesh Government Memo dated 8.10.1956 and the lease deed was executed on 26.12.1956 for a period of 20 years. The lease was transferred in favour of M/s BIOP on 4.9.1962. The first renewal from 26.12.76 to 25.12.1996 was granted vide Government order dated 1.9.1977. The second renewal from 26.12.1996 upto 25.12.2016 has been granted vide State Government order dated 11.2.2000. Approval under the Forest (Conservation) Act, 1980 has been granted for the mining lease area by the MoEF vide order dated 19/26.5.1998.
2.	Obulapuram Mining Company Pvt. Ltd. (M/s OMC)	25.98	Mining lease over an extent of 547.62 acres granted on 10.9.1964 in favour of Mr. G. Ramachandra Reddy for a period of 20 years. The lease deed was executed on 15.12.1964 and was valid up to 14.12.1984. After Mr. Ramachandra Reddy expired on 23.12.1972, his son Mr. G. Ramamohan Reddy was declared as legal heir for the said lease. The first renewal for the mining lease over an extent of 64.20 acres (25.98 hectares) for a period of 20 years with effect from 14.12.1984 and up to 13.12.2004 was granted by the State of Andhra Pradesh vide order dated 10.12.1996. Before that (a) the approval under the Forest (Conservation) Act, 1980 for diversion of 25.98 hectares of forest land for renewal of mining lease for a period of 10 years (State of Andhra Pradesh had recommended for a period of 20 years) was granted by the MoEF vide order dated 19.7.1995 and by the State Government of Andhra Pradesh (Forest Department) vide order dated 21.8.1995; and (b) the Government of India, Ministry of Mines vide letter dated 28.1.1996 conveyed their approval for the first renewal of the mining lease for a period of 20 years with effect from 14.12.1984. The Government of Andhra Pradesh (Forest Department) vide Memo dated 8.10.1996 decided that the actual period of 10 years of

			<p>renewal of lease comes into effect from the actual date of commencement of the operations by the lessee. The lease deed was executed on 26.4.1997 for a period of 20 years (14.2.1984 – 13.12.2004). Earlier, the mining operations were continued from 1984 to 31.3.1994 pursuant to the directions passed from time to time by the Hon'ble High Court of Andhra Pradesh. The mining lease was permitted to be transferred in favour of M/s OMC for the unexpired period of lease (up to 13.12.2004) vide Government of Andhra Pradesh order dated 18.2.2002 and accordingly transfer of the lease deed was executed on 7.5.2002. On a representation made by M/s OMC, the Government of Andhra Pradesh in Industry and Commerce Department vide order dated 10.9.2004 decided to reckon the period of first renewal of the mining lease from the date of execution of the lease deed i.e. with effect from 26.4.1997 and accordingly the renewed lease deed is valid upto 25.4.2017. The MoEF vide letter dated 27.7.2007 has granted permission under the FC Act for the said mining lease for a period of 10 years with effect from 19.7.2005. Subsequently, on a representation made by M/s OMC, the MoEF vide letter dated 6.11.2007 granted permission for extension of the lease period up to 25.4.2017.</p>
3.	Obulapur-am Mining Company Pvt. Ltd. (M/s OMC)	39.50	<p>Mining lease granted vide Government of Andhra Pradesh, Industry &amp; Commerce Department order dated 18.6.2007 for a period of 20 years and the lease deed was executed on 19.6.2007. Earlier, the MoEF vide order dated 5.10.2006 granted approval under the FC Act for diversion of 39.50 hectares of forest land and the Government of India, Ministry of Mines granted permission under Section 5 (1) of the MM (D&amp;R) Act, 1957 for grant of mining lease vide letter dated 25.5.2007.</p>
4.	Obulapur-am Mining Company Pvt. Ltd. (M/s OMC)	68.52	<p>The mining lease granted by the Government of Andhra Pradesh, Industry &amp; Commerce Department vide order dated 18.6.2007 and the lease deed has been executed on 19.6.2007. Earlier, (a) the MoEF vide order dated 5.10.2006 granted approval under the Forest (Conservation) Act, 1980 and (b) the Government of</p>

			India, Ministry of Mines vide letter dated 25.5.2007 granted permission under the MM(D&R) Act, 1957.
5.	M/s Anantapur Mining Corporation	6.50	The mining lease over an extent of 280 acres for a period of 15 years was granted in favour of Mr. M.K. Reddy vide Government order dated 5.11.1952 and the lease deed was executed on 27.1.1956. The lease deed was permitted to be transferred in favour of M/s OMC vide Government order dated 13.11.1961. The first renewal was granted for a period of 15 years vide Government order dated 16.6.1971 and the renewal lease deed was executed on 2.8.1971. After expiry of the renewed lease period on 25.1.1986, the mining continued pursuant to the order of the Hon'ble High Court of Andhra Pradesh and was stopped from 29.1.1990. The second renewal of the mining lease over an extent of 6.50 hectares has been granted vide Government of Andhra Pradesh Order dated 10.7.2006 for a period of 20 years with effect from 19.8.2003. Earlier, the approval under the FC Act was granted by the MoEF vide order dated 19.8.2003 for diversion of 6.5 hectares of forest land for renewal of mining lease for a period of 10 years.
6.	M/s Y.M. & Son	20.24	The mining lease over an extent of 150 acres was sanctioned vide Government of Andhra Pradesh, Industry & Commerce Department order dated 1.12.1977 and the lease deed was executed on 12.1.1978. The first renewal of the mining lease for a period of 20 years with effect from 12.1.1998 has been granted vide Government of Andhra Pradesh, Industry & Commerce Department order dated 8.3.2001. Earlier, approval under the FC Act has been granted by the MoEF vide order dated 11/12.11.1999.

36. After complaints were made by M/s BIOP that M/s OMC has encroached into its mining lease area, a Committee under the Chairmanship of the Chief Conservator of Forest was constituted by the Secretary, Industry &

Commerce, Government of Andhra Pradesh and which undertook an exercise to demarcate the village boundary between the villages H. Siddapuram and Obulapuram falling in the Bellary Reserved Forest and for which no details were provided in the respective revenue village maps. After demarcating the village boundary on the ground, the said Committee concluded that M/s BIOP has encroached into the mining lease area of M/s OMC to the extent of 2.74 hectares of area (refer Annexure R-62 of this Report). After a number of complaints about the illegal mining and encroachment against M/s OMC were made, on the directions of the Government of Andhra Pradesh (Forest Department), the Principal Chief Conservator of Forest, Andhra Pradesh Forest Department constituted a Three Member Committee under the Chairmanship of Special Principal Chief Conservator of Forest (Vigilance), Mr. Sami Reddy. This Committee (hereinafter referred to as Sami Reddy Committee) in its Report dated 20.11.2009 (refer Annexure R-63 of this Report) has made the following observations with respect to the survey earlier done by the earlier Committee referred to above:

- i) the village boundary line has been stretched by 1016 meters till it meets the southern boundary of M/s BIOP lease. By doing so the Team found

that old Station No.4 on M/s BIOP is lying about 80 meters to the east of the village boundary now fixed by the Team. When the same village boundary located by the Team is stretched till the northern boundary of M/s BIOP, the Team found on calculation that 2.74 hectares of area is falling short of M/s BIOP lease area;

- ii) when the Survey Team reached last Survey Station i.e. A-5 in the map located on the inter-State boundary they realized that the Station A-5 is not falling on the inter-State boundary but falling in the field within Andhra Pradesh State. When the distance from the A-5 Station to the inter-State boundary was measured in the field it was found that existing inter-State boundary is 93 meter away from the A-5 Station located by the Team. The Team could not reconcile this deviation of 93 meter. In the final Report submitted by the said Committee, this deviation of 93 meter is not mentioned in the Report, though shown in the map attached to the Report and without explaining this deviation. It indicates that the final Survey Report given by the High Level Survey Team suffers from inconsistencies;

iii) after the village boundary was fixed on the ground as well as on the survey sketch, the DFO, Anantapur superimposed the mining leases on a single map. The examination of the combined sketch revealed that the shape of M/s YMS lease is totally changed and its boundary of 3.79 hectares is shown over-lapping other two leases of M/s OMC. M/s BIOP lease in the sketch is limited to 24.32 hectares only which is 2.74 hectares less than its original lease area. Even its shape and internal angles and chainage are not tallying with the original lease after reducing 2.74 hectares. The shape of the lease on the map are not as per the sketches approved at the time of sanction accorded by the Government of India. In view of the above, the whole exercise undertaken by the Government for fixing the lease boundaries needs to be reviewed and appropriate decision may be taken to locate the lease boundary properly to settle the boundary for renewal of mining lease for a period of 10 years (State of Andhra Pradesh had recommended for a period of 20 years) dispute once and for all;



37. Separately, the then Director, Andhra Pradesh Geo Spatial Data Center, Hyderabad (APGDC), and who is presently the Surveyor General of India, Survey of India, Dehra Dun, in his letter dated 7<sup>th</sup> July, 2008 addressed to the then Surveyor General of India has, after pointing out the serious deficiencies, recommended that the survey work carried out by the Committee on survey referred to above, may be rejected and the work be undertaken afresh **(ANNEXURE-R-76)**.

38. The CEC endorses the observations made by the Sami Reddi Committee and by the Director, APGDC and is of the considered view that the survey work done by the above said Committee needs to be completely discarded.

39. The Sami Reddy Committee has made the following specific observations regarding illegality/irregularity committed by various lease holder:

**M/s OMC (25.98 hectares) –**

- (i) about 3 to 4 hectares of Reserved Forest area has been used unauthorisedly for dumping over-burden waste outside the lease boundary towards the southern side;

- (ii) from the field situation it appears that M/s OMC, might have encroached into the BIOP area and carried out illegal mining;
- (iii) on the northern most boundary of this lease, along with the inter-State border with Karnataka, a road is formed from the lease area of M/s OMC leading into the other side of the lease into the Karnataka State which appear to facilitate transportation of iron ore on either side of the State. This road is formed without any authority. Actually on the northern boundary a safety zone of 7.5 meter is supposed to be maintained;

**M/s OMC (68.50 hectares ) –**

- (i) Permanent boundary pillar of Station No.8, which was originally fixed in the stream bed, was shifted to western direction by about 40 meters towards Karnataka boundary. Similarly, the permanent pillar at Station No. 10 is removed. Shifting of permanent survey station pillar is a gross irregularity committed by the user agency. Moreover, the shifting appears to be done

with malafide intention of increasing the lease area;

- (ii) the user agency was to form a road for transportation of ore, to join at Station No. 8 from outside the lease area. In the field, the user agency is found to have formed the road from outside the lease connecting near Station No.7. The user agency is not authorized to change the location of the permitted road;
- (iii) the user agency has formed a totally unauthorized road from the lease areas near Station No.1 leading into reserved forest area outside the lease over a distance of 2.95 kms.
- (iv) 29.37 lakh metric tones of iron ore has been dispatched. The size of the mining pits and surface mining area in different places as observed by the Committee could not have provided even 40% of the quantity as reported dispatched. The Mines & Geology Department, which is the appropriate Department, should assess the

actual quantity mined. It may also be verified whether the Inspector of Mines inspected the mine area and quantified the ore before recommending for issue of mineral dispatch permits;

- (iv) A road has also been formed unauthorisedly near Station No.10 from the mining lease area leading into the other mining leases located on the other side in the Karnataka State. This road can be used for transportation of ore from either side of the two States.

**M/s AMC –**

- i) 11.0 lakh MT iron ore has been dispatched during 2008-09 and 2009-10 up to October, 2009. The quantity of 11 MT appears to be on the higher side (as no fresh mining activity was observed) which may be verified by the Mines & Geology Department;
- ii) 11.0 MT of ore was removed without obtaining forest permits.

**M/s YMS-**

40. The Committee observed dumping of waste and over-burden towards western side and outside the leased area over about 1.55 hectares. This means the unauthorized use of forest land without obtaining approval under the FC Act and is a serious violation.

**M/s BIOP-**

- i) Towards the North Western boundary of the lease about 1.8 hectares of reserved forest, outside the lease boundary, has been utilized for dumping the over-burden without approval under the FC Act. This is a serious irregularity.
- ii) 2.5 lakh MT of iron ore has been dispatched during 2009-10. No mining activity is observed. The Committee observed that there is no active mining in this area though dispatches were being done. This needs to be examined by the Mines & Geology Department.

**M/s OMC (39.50 Hectares)-**

- i) Towards south eastern boundary of the lease, the user agency has dumped overburden unauthorisedly in about 1.0 hectare of Reserved Forest area outside the lease and is in violation of the FC Act.

**Serious illegalities / irregularities observed by the CEC**

41. The CEC has found the following glaring illegalities/irregularities in respect of these six mine leases:

- i) In respect of mining lease of 25.98 hectares of M/s OMC, the Ministry of Mines, Government of India has granted approval under Section 8(2) of the Mines and Minerals (Development Regulation) Act, 1957 for first renewal of the lease for a period of 20 years with effect from 14.12.1984. The Government of Andhra Pradesh also sanctioned the first renewal accordingly. The renewal lease deed has also been executed for the same period. After the transfer of the mining lease was permitted in favour of M/s OMC from the original lease holders, the transfer of the mining lease deed was executed for the unexpired period of lease i.e. up to 13.12.2004.

Subsequently, on a representation made by M/s OMC, the lease period has been decided to be reckoned with effect from 26.4.1997 (the date of execution of the renewal lease deed) and accordingly the first renewal period is valid up to 25.4.2017 instead of up to 13.12.2004. On examination of the relevant note sheet of Government of Andhra Pradesh (refer Annexure R-23 of this Report), it is seen that the above permission was granted by presuming that the mining operations had not taken place between 1984-1997 whereas the mining has taken place regularly between 1984 to 1997 (refer Annexure R-22 of this Report).

The CEC is of the view that reckoning of the lease period from the date of renewal lease deed and not from the day following the day on which the lease period had expired would not only be illegal but tantamounts to granting undue favour to M/s OMC. This decision has been taken without obtaining the revised permission from the Central Government and when the lease period was due to expire. There was no specific direction from the Hon'ble High Court or any other competent authority for modifying the renewal lease period. There are tens of thousands of mining leases which have been renewed in various State/UTs including in Andhra Pradesh. Practically in all the cases, except under specific directions of the Hon'ble High Court, the renewal lease period has been reckoned from the day following the day on which the earlier sanction lease period has

expired.

The mining had continued between 1984 to 1997 and which was not taken into consideration while modifying the renewal lease period. If the renewal lease period is not to be reckoned from the date of expiry of the original lease period, in such a case this should have been considered as a grant of fresh mining lease and not renewal. No decision was taken as to how the period between 1984 to 1997 will be treated.

- ii) The approval under the FC Act for 25.9 hectares of M/s OMC was granted for a period of 10 years. The Principal Chief Conservator of Forest had taken a stand that the period of 10 years needs to be reckoned with effect from the date on which the first renewal of the mining lease has taken place i.e. with effect from 14.12.1984. Without assigning any reason, the Government of Andhra Pradesh (Forest Department) took a decision that the period of 10 years is to be reckoned with effect from the actual date of commencement of the operation by the lessee (refer Annexure R-16 of this Report). The period of 10 years was reckoned from 26.4.1997 by the



Andhra Pradesh (Forest Department) and from 21.8.1995 by the MoEF. For the period between 1984-1995, during which the mining operations continued in the lease area, no approval under the FC Act was obtained/granted and therefore the mining operations during this period have taken place in violation of the provisions of the FC Act.

Subsequently, the MoEF granted approval under the FC Act for diversion of forest area and which was valid up to 18.7.2005 (refer Annexure R-25 of this Report). On a representation made by M/s OMC, the above order was modified and the permission was extended up to 25.4.2017 (refer Annexure R-26 of this Report). No specific recommendation was sought/made from the State of Andhra Pradesh something that should have been insisted upon by the MoEF.

- iii) Similarly in respect of mining lease of M/s AMC, the first renewal lease period expired on 26.11.1986 and therefore the period of the second renewal should start with effect from 27.1.1986. Instead the second renewal has been granted with effect from 19.8.2003 – almost 17

years after the expiry of the valid renewal lease period and even though the mining operations continued between 1984 to 1990 (refer Annexures R-46 to R-51 of this Report);

- iv) in respect of 68.5 hectares of mining lease of M/s OMC it is seen that while the approval under the Forest (Conservation) Act, 1980 has been granted for 66.5 hectares (and 2 hectares for associated road) the lease deed on the other hand has been executed for 68.5 hectares. The shape of the mining lease sketch in both the cases are completely different (refer lease sketches at Annexures 43 and 44 of this Report). This is an extremely serious illegality. The boundary and area of the mining leases executed under the MM (D&R) Act cannot be at variance with what has been approved under the Forest (Conservation) Act, 1980 otherwise this will result in unauthorized use of the forest land in violation of the FC Act. It is not understood as to how the boundaries of the mining lease was fixed on the ground and verified independently by the Mines Department and the Forest

Department when two different mining lease sketches were approved;

- v) in respect of 39.5 hectares mining lease of M/s OMC, the boundary of the mining lease approved under the FC Act is entirely different from what has been granted by the Mines Department even though identical areas have been approved (Refer Annexure R-37 and 39 of this Report). The northern boundary of the lease lies on the inter-State boundary between Karnataka and Andhra Pradesh. In the approved mining lease sketch its length is shown to be 388.621 meters (between point 1 to 2 refer Annexure R-37 of this Report). In the lease sketch used for seeking approval under the FC Act, duly verified by the concerned officers of the Forest Department, the length of this portion of the lease boundary is shown to be 340 meters (between Station No.14 to Station No. 1). The north west portion of the mining lease area, the shape of the polygon in lease area in both the cases are completely different. The shape of the mining lease boundary and the area excluded from the mining lease (of M/s AMC) are completely different in

both the sketches). No explanation or justification for the difference of 48.621 meters between the two lease sketches have been given. This is a serious illegality and which should not have been allowed to happen.

- vi) None of the six mining leases have been granted or fixed on the ground with reference to the permanent control points. This has been clearly brought out in the Sami Reddy Report as well as in the Report of the Composite Survey Committee. In the absence of the above, each of these six mining leases can theoretically be laid anywhere on the ground;
- vii) the approval granted under the Forest (Conservation) Act, 1980 specifically provides that permanent boundary pillars at 20 meter interval shall be erected all along the boundary of the mining lease. None of these six mining leases have complied with this vital condition even on paper. It is not understood how the mining operations were allowed to commence/continue without verifying the compliance of this condition. Had the compliance of this critical condition been ensured by the

concerned authorities of the State Government, any illegal mining / encroachment would not have gone undetected particularly as all these six mining leases fall completely within the Reserved Forest;

- viii) In the mining lease sketch of 547.62 acres granted in favour of Shri G. Ramamohan Reddy and which has subsequently been transferred in favour of M/s OMC (presently the lease area is 25.98 hectares), the northern boundary of the lease lies on the inter-State boundary - as shown in the lease sketch (refer Annexure R-29 of this Report). The total length of this leg of the lease boundary is the same as the length of the inter-State boundary marked as 'GA' in the Bellary Reserved Forest map at **ANNEXURE-R-77** of this Report i.e. 486.95 meter. As per the present lease sketch of the present leases of 25.98 hectares of M/s OMC and 39.5 hectares of M/s OMC their northern boundaries put together falls exactly on the inter-State lines between the Points 'A' to 'G' and therefore their total length should add to 486.95 meters. However, the northern leg of 25.98 hectares of the lease is

shown to be 75 meters whereas the northern leg of the lease (39.5 hectares) is shown to be 340 meters i.e. totalling to 415 meters which falls short by 71.95 meters;

- ix) while seeking approvals under the FC Act, the mining lease sketches as laid on the Survey of India topo-sheets have also been filed by the Applicant/State Government. In respect of the mining lease of M/s BIOP and M/s OMC (25.98 hectares), the lease sketches as demarcated on the topo sheet overlap each other (refer Annexure R-13 and R-30). The lease sketches of the two mine leases cannot overlap each other as otherwise the common area stands allotted to two lessees – which is not permissible. This is a glaring and inexplicable lapse which should have never been allowed to happen;
- x) In the lease sketch of M/s OMC of 25.98 hectares, the length of the northern leg of the lease sketch lying on the inter-State boundary is shown to be 3.75 chain (referred Annexure R-29 of this Report) i.e. 75.46 meters. However in the sketch of the same lease filed at the time of seeking approval under the FC Act during 2007,

the length is shown to be 75 meters (refer Annexure R-32). No justification or explanation for the same has been given;

xi) as per the Report of the Sami Reddy Committee, the Reserved Forest area falling outside the approved lease area have been used by M/s OMC, M/s BIOP and M/s YMS for over-buden dumping. This is also corroborated by the Report subsequently filed with the CEC along with the photographs by the Andhra Pradesh (Forest Department) (refer Annexure R-66 of this Report). This is also corroborated by the satellite imagery of the area (refer Annexure R-73 of this Report) wherein the location of the over-burden dump is clearly visible. This is a blatant and brazen violation of the provisions of the Forest (Conservation) Act;

xii) as per the Report of the Sami Reddy Committee, five illegal roads have been constructed in the reserved forest and outside the lease area of M/s OMC (68.5 hectares),. This is also corroborated by the Report subsequently filed with the CEC by the Andhra Pradesh (Forest Department) (refer Annexure R-

66 of this Report) wherein the sketch showing the location of each five roads has been provided. This is a serious violation of the provisions of the Forest (Conservation) Act, 1980 and also the conditions on which the mining lease has been granted;

xiii) from the details provided by the Andhra Pradesh Mining Department it is seen that the permit for the transportation of minerals have been issued on the basis of requisition made by the respective lease holders and without any physical verification. The issue of permits for the transportation of mineral, without any verification at all, by the Mining Department, to say the least, is most irresponsible and disturbing as it facilitates illegal mining and related illegal activities. The system of issue of permits by the Forest Department was dispensed with in respect of mining leases of M/s OMC, M/s BIOP and M/s YMS. In this context, the observations made in the Sami Reddy Committee that the mineral transported by M/s OMC (68.5 hectares) and M/s AMC (6.5 hectares) appears to be far in excess considering the sizes of the mining pit is



to be seen. Unfortunately even after the above observations were made by the Sami Reddy Committee, no effort was made by the Mines Department to verify the quantity of minerals transported vis-à-vis the size of the mining pits. The CEC is unable to comprehend the reasons for these inexplicable lapses. Incidentally as per the Report given by the Forest Department (refer Annexure R-66 of this Report), most of the benches in the mining lease of M/s OMC (68.5 hectares) have been formed after the inspection by the Sami Reddy Committee. The Report dated 31.12.2010 filed before the CEC by the Andhra Pradesh Mines Department (refer Annexure R-67 of this Report) also clearly establishes that the mining benches shown to the CEC during the site visit were formed after the filing of the Report by the Sami Reddy Committee. Similarly, in respect of M/s AMC, the mineral transported is reported to be much more than what could have been extracted from the area. Unfortunately, no verification in this regard has also been done by the Mines Department;

xiv) in respect of M/s OMC (25.98 hectares) and M/s BIOP, common boundary working permission has been accorded by the Director of Mines Safety, Bellary Region (refer Annexure R-64 of this Report). In the plan filed along with the Application jointly filed by M/s OMC and M/s BIOP, the mining lease area of M/s BIOP and other details are given. On examination of the above plan, it is seen that all along the common boundary, the western boundary of the mining lease of M/s OMC is shown to be same as the eastern boundary of M/s BIOP. This is totally incorrect as the shape of the eastern boundary of M/s BIOP and that of the western boundary of M/s OMC are entirely different and therefore cannot coincide/overlap with each other. This plan clearly clinches the fact that M/s OMC has undertaken illegal mining in forest area and outside its lease area; and

xv) M/s AMC has transported 11 lakh Mt of iron ore without the Forest Department issuing any permits. Unlike M/s OMC, M/s BIOP and M/s YMS it was not granted any exemption from the necessity of obtaining permits from the Forest

Department. This is a serious violation, smacks of undue favour and should never have been allowed by the concerned officers of the State Government.

42. It would not be appropriate to use the inter village boundary shown in the Bellary Reserved Forest map to determine and demarcate the boundaries of the various mining leases in the area (as has been done by the State of Andhra Pradesh). In this regard the following observations made by the Composite Survey Committee in its Report dated 9.6.2010 filed before this Hon'ble Court are particularly relevant:

*“Revenue maps do not depict village boundary inside the Bellary Reserve Forest. The only records which shows the village boundary in Bellary Reserve Forest is forest sketch map 1896. Sketch map 1896 does not have latitude / longitude lines or grid lines on it. It neither conforms to the ground details correctly nor in agreement to the latest topo-sheet of the area prepared by Survey of India which depicts the ground details correctly. When distances between points appearing on this sketch were measured and compared with actual distance*

*measured with GPS or latest topo-sheet, they are not at all in agreement. The comparative table is shown in Annexure-XX. This study indicates that forest sketch map 1896 can be used as sketch only. Position of point and line features on this sketch maps are approximate. No village boundary pillar is existing in this area. Therefore, any attempt to fix village boundary between H. Siddapuram village and Obulapuram village using this sketch will give rough approximation of the boundary which can not be used for fixing lease boundary accurately. Therefore correct fixation of village boundary to determine the lease boundary between leases of M/s BIOP Ltd. land M/s OMC Ltd. is not possible."*

43. On comparing the details given in the Bellary Reserved Forest Map (a xerox copy of the relevant portion of the map is enclosed at ANNEXURE-R-77 to this Report) with the geo referenced map (refer Annexure R-59 of this Report) and lease sketch of M/s OMC (25.98 hectares) at Annexure R-29 of this Report) it is seen that

- (i) the location of GT Station in the map is shown to be on the left side of the inter village boundary

(marked as a, b, c, d, e, f on the map by the CEC) while in the geo referenced map its falls on the right side of the same;

- (ii) the distance between the inter-village boundary and the rock mark lying on the inter-State boundary on the right side (marked as A and G by the CEC on the map) is 24.2 chain i. e. 486.95 meters. (One chain is equal to 66 ft and one meter is equal to 3.28 ft.). The rock mark at 'G' physically exists on the ground and has been marked as Control Point No.11 in the geo-referenced Bellary Reserved Forest Map. The distance between the inter village boundary and the rock mark in the geo referenced map control point No.11 to 12 comes to 436.15 meters i.e. there is difference of about 50.80 meters between the distances as given in the Reserved Forest map and the actual distance found on the geo-referenced map. This difference in the actual distance vis-à-vis that shown in the map has not been taken into consideration at the time of approval/determining the boundaries of the mining leases;

- (iii) the rock point marked as 'G' by the CEC is located on the hilltop whereas in the map it is shown to be falling in gentle slope/village;
- (iv) there is a difference of about 200 meters between the distance of the two end points of inter village boundary, shown in the reserved forest map vis-à-vis the distances determined in the geo-referenced map;

44. In view of the above, the CEC, in complete agreement with the views of the Composite Survey Committee, is of the considered view that the location of the inter-village boundary as shown in the Bellary Reserved Forest cannot be used for identifying and determining the boundaries of the mining leases in the area.

45. In the mining lease area of M/s OMC (25.98 hectares), the length and bearing of each of the mining lease arm is provided. If the boundary of the lease sketch is drawn accordingly, there will be an unallotted forest area which will lie between the mining leases of M/s BIOP, M/s YMS and M/s OMC (refer Annexure R 74 of this Report). If the lease sketch is demarcated as per its shape and without taking into consideration the bearings shown in the lease sketch, its location and shape will broadly tally with the corresponding

points on inter-village boundary and State boundary (refer Annexure R-74 and R-75 of this Report).

46. M/s OMC has taken a stand that the bearings shown in the lease sketch map are not with reference to the true North. Instead the bearings are with reference to north tilted in north-west direction. This is incomprehensible. The bearings shown in the lease sketch map even if they are taken as with reference to Magnetic North there cannot be a difference of more than 2-3 degree with reference to true North. In any case the lease sketch has to be demarcated and laid on the ground with reference to the details shown in the lease sketch map. The bearings given in the lease sketch cannot be over-looked or arbitrarily adjusted on the purported ground that they have not been recorded with reference to true North or Magnetic North but with reference to some other line taken as North. Such measurements are not acceptable.

47. There are no undisputed permanent rock marks /boundary pillars available in and around the mining lease area, except the GT Station and rock mark marked as control point No.11 in geo-referenced map of Bellary Reserved Forest (enclosed at Annexure R-68), which can be used to lay boundaries of the mining leases on the ground.

48. The shape of the mining lease granted to M/s YMS is such that it cannot (a) lie completely within the boundary of village H. Siddapuram as shown in the Bellary Reserved Forest map and (b) simultaneously is not touching western boundary of the mining lease of M/s OMC.

49. The location of Sugidaribetta GT Station is shown in the Bellary Reserved Forest and in various topo sheets published by the Survey of India. The said GT Station has been permitted to be destroyed by the Survey of India. Subsequently, the said GT Station has been relocated by the Survey of India. The coordinates of the relocated GT Station, referred to as Suglammakonda are exactly identical to the GT Station referred to as Sugidaribetta. The relevant correspondence in this regard is enclosed at **ANNEXURE-R-78** to this Report. The precise coordinates of the GT Station are available and can easily be identified and established on the ground.

50. In the mining lease sketch of M/s BIOP issued by the Department of Land Records the location of the GT Station is shown with reference to north-east corner of the lease of M/s BIOP. There is a difference between the bearings and length of various arms given in this sketch vis-à-vis those given in the approved lease sketch of 1965 (refer Annexure R-10 and R-10(A) of this Report. In the mining lease sketch



of M/s YMS, the location of the south-eastern corner of the lease area is provided with reference to the GT Station (refer Annexure R-60 and R-61 of this Report). By co-relating the approved lease sketch of M/s BIOP with the sketch issued by the Department of Land Records and the lease sketch of M/s YMS, it will be possible to identify the location of the north-eastern corner of the mining lease sketch of M/s BIOP as well as the south-eastern corner of the mining lease of M/s YMS. With appropriate software, the lease boundaries of the two leases can be generated on a computer and the latitude and longitude of each corner of these two leases can be determined and thereafter laid on the ground. Though this is not a foolproof system (as normally three control points are required to correctly geo-reference a polygon), in the absence of the availability of control points/ undisputed rock marks, the CEC is of the considered view that this is the next best option available to determine the boundaries of these two leases on the ground. Further, in view of small distances between the location of the GT Station and the corners of these two leases, the probability of error in determining the coordinates of the polygon will be minimal.

51. In respect of the mining lease of M/s OMC (25.98 hectares) the lease area should be determined after taking into consideration the bearings and length of each of the arm

as given in the lease sketch. The lease map sketch may be geo-referred with reference to the inter-State boundary and after determining the coordinates of all the corners may be laid on the ground. It may be mentioned that the northern boundary of the mining lease of M/s OMC (25.98 hectares) is 75 meters and northern boundary of M/s OMC (39.5 hectares) of 340 meters in length (as per the approval granted under the FC Act) and both lie adjacent to each other. The mining lease of M/s OMC (39.5 hectares) starts from the control point No.11 shown in the inter-State boundary and therefore the mining lease of M/s OMC will start from a distance of 340 meters from the Control Point No.11. Accordingly, both leases can be determined and coordinates for their corners can be determined and thereafter laid on the ground. The boundaries of mining lease of the M/s AMC can subsequently be easily determined and laid on the ground.

52. However, if it is decided that the bearings given in the mining lease of M/s OMC (25.9 hectares) are to be completely discarded, in such an event the original mining lease sketch of M/s OMC (547.62 acres) can be geo-referred with reference to the inter-State boundary and the inter-village boundary and thereafter by taking the length of the northern side of these leases to be 340 meters and 75

meters respectively, the coordinates of the corners of the polygon can be determined and laid on the ground.

53. To sum up:

- i) The first renewal period of mining lease of 25.9 hectares of M/s OMC has actually expired on 13.12.2004. The permission granted by the State of Andhra Pradesh to treat the mining lease valid up to 25.4.2017 is illegal and needs to be set aside. The mining done in the forest area after 2004 is therefore illegal and the value of the mineral extracted from the reserved forest after April, 2004 should be recovered from the lease holders based on the normative market value of the mineral extracted from the area. Similarly, the mining lease of M/s AMC has been renewed after a gap of almost 17 years which is illegal and it should be cancelled.
- ii) The boundaries of the mining lease of 39.5 hectares granted to M/s OMC differs materially from what has been approved under the Forest (Conservation) Act, 1980. The lease deed executed by M/s OMC is therefore illegal and needs to be cancelled;

- iii) the area as well as the boundaries of the mining lease of 68.5 hectares granted to M/s OMC differs materially from what has been approved under the Forest (Conservation) Act, 1980. The lease executed by M/s OMC therefore needs to be cancelled;
- iv) the minerals extracted from the mining lease of 68.5 hectares of M/s OMC and 6.5 hectares of M/s OMC appears to be far in excess of what could have been extracted from these leases as per the size of the pits. In spite of this being brought out by the Sami Raddy Committee, no effective steps have been taken by the Andhra Pradesh Mining Department to get this verified physically in the field;
- v) the plan attached with the common boundary mining agreement between M/s BIOP and M/s OMC clearly establishes that M/s OMC has worked illegally in reserved forest area and outside its lease boundary;
- vi) the Andhra Pradesh Mining Department issued permits only on the basis of statements/returns filed by the lease holders for transportation of

minerals and without any physical verification.

This had provided ample opportunity for illegal mining and related activities;

- vii) there were no effective system of checks and balances existing in the field to ensure that the mining lease boundaries are properly laid and maintained on the ground and that mining and associated activities are confined to the lease area and regulated as per provisions of the relevant comments, rules and guidelines and the conditions on which the approvals were granted;
- viii) while granting approvals under the Forest (Conservation) Act, 1980 for use of Reserved Forest for the six mining leases among others a specific condition was laid by the MoEF that permanent boundary pillars at an interval of 20 meters shall be erected and maintained all around the boundary of the mining lease. This vital condition was not complied with by any of the mining lease holders. Had the concerned officers of the State Government ensured compliance of this important condition, the boundary disputes, illegal mining outside the

lease areas and other illegalities would not have occurred;

- ix) M/s OMC, M/s BIOP and M/s YMS have used forest area outside the approved lease boundary for dumping over-burden in violation of the provisions of the Forest (Conservation) Act, 1980;
- x) The inter-village boundary and the inter-State boundary as shown in the Bellary Reserved Forest cannot be used for determining and laying the boundary of the mining leases in the present case as the location and distances shown in the map do not tally with the actual ground situation;
- xi) M/s OMC in the mining lease of 68.5 hectares has illegally constructed five roads in violation of the provisions of the Forest (Conservation) Act, 1980 and the conditions on which the lease was granted to it;
- xii) In the absence of any undisputed rock marks, the boundaries of M/s BIOP and M/s YMS can be determined only with reference to their location vis-a-vis the GT Station;

- xiii) The boundaries of M/s OMC (25.98 hectares) if determined with reference to the bearings given in the lease sketch will result in a shape showing unallotted land in between the mining leases.

## **RECOMMENDATIONS**

54. In the above background the following recommendations are made by the CEC:

- i) The boundaries of the mining leases of M/s BIOP and M/s YMS should be determined with reference to the location of the GT Station vis-à-vis the north-east corner of M/s BIOP and south-east corner of M/s YMS leases. The boundaries of the mining lease of M/s OMC (25.98 ha.) should be determined on the basis of the bearings, leg length as given in the approved lease sketch and with reference to the rock mark (shown as control point No.11 in the geo-referenced Bellary Reserved Forest Map. Thereafter the boundaries of 39.5 hectares of lease of M/s OMC and M/s AMC can easily be determined. If any area is found overlapping between the boundaries of the lease of M/s BIOP, M/s OMC and M/s YMS then the lease

boundaries may be suitably adjusted on the principle of first come first serve. The mining lease of 68.5 hectares of M/s OMC should be determined with reference to the lease sketch as approved under the FC Act after geo-referenced with reference to the inter-state boundary;

- ii) the mining lease of 25.98 hectares of M/s OMC should be cancelled in view of (a) the lease deed has been illegally extended; (b) illegal mining outside the approved lease area; and (c) illegal use of reserved forest outside the approved lease area for over burden dump;
- iii) the mining lease of 68.5 hectares of M/s OMC should be cancelled as (a) the lease deed executed by the Mines Department differs materially from forest area for which approval under the Forest (Conservation) Act, 1980 has been obtained; (b) five roads have been illegally constructed in the Reserved Forest and outside the approved lease area in violation of the provisions of the Forest (Conservation) Act, 1980 and the conditions on which the lease was



granted; and (c) the mineral transported in the guise of minerals extracted from the lease area is far in excess of what could have been extracted as per the size of the mining pits;

iv) the mining lease of 39.5 hectares of M/s OMC should be cancelled as the lease executed by the Mines Department differs materially from forest area for which approval under the Forest (Conservation) Act, 1980 has been obtained;

v) the mining lease of 6.5 hectares granted to M/s AMC should be cancelled as the renewal of the mining lease has been granted almost after a gap of 17 years from the date on which the earlier renewed lease period expired; (b) 11 lakh MT iron ore has been transported without obtaining permit from the Forest Department in violation of the rules and guidelines; and (c) the mineral transported in the guise of mineral extracted from the mining lease area is far in excess of what could have been extracted from the lease area;

vi) M/s BIOP and M/s YMS should be directed to pay exemplary compensation for use of Reserved Forest area outside the approved leased area for dumping of overburden. It is recommended that the exemplary compensation may be assessed and recovered at the rate of 20 times of the normal NPV payable for the forest area used by them;

vii) all mining operations including transportation of already mined material (if any) should remain suspended till (a) the inter-State boundary between Andhra Pradesh and Karnataka is formally determined and physically laid on the ground; (b) the lease boundaries are determined and physically laid on the ground with permanent pillars and with reference to permanent control points (with latitude and longitude); (c) the GT Station is physically laid on the ground; (d) exemplary compensation payable by each of the respective mining lease holders are deposited in the Compensatory

Afforestation Fund (CAMPA); (e) an effective system of checks and balances and monitoring put in place to ensure that no illegal mining and associated activities takes place outside the lease area and the mineral extracted and dispatched is in accordance with the approved mining plan;

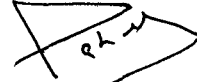
viii) the common boundary mining agreement between M/s OMC and M/s BIOP, between M/s OMC (25.98 hectares) and M/s OMC (39.5 hectares) and between M/s BIOP and M/s YMS should be reviewed with reference to the boundaries of the mining lease and modified accordingly. Till then, no mining in and around the common boundary should be permissible; and

ix) no mining should be permissible upto a distance of 50 meters on either side of the inter-State boundary between Andhra Pradesh and Karnataka to ensure that the boundary ~~earlier~~<sup>pillar</sup> and the boundary line between these two States passing through the Reserved Forest remain untouched and is not destroyed because of mining.

55. The CEC, before concluding the Report, would like to refer to the sorry state of affairs observed in the preceding paragraphs and which could not have taken place without the active connivance of the concerned officers of the State Government. The almost non-existent monitoring mechanism largely contributed to the large scale illegalities which have occurred. The CEC would also like to place on record its appreciation for the unstinted cooperation extended by the present Chief Secretary, the present Special Chief Secretary, Forest, and the present Principal Secretary (Industry & Commerce Department) of State of Andhra Pradesh in providing exhaustive and unbiased information to the CEC. The CEC would also like to place on record the forthright, objective and unbiased Report given by the Committee constituted under the Chairmanship of Mr. Sami Reddy, Special Principal Chief Conservator of Forest (Vigilance), Andhra Pradesh.

56. The present Report confines itself to the six mining leases in Bellary Reserved Forest in Andhra Pradesh as directed by this Hon'ble Court. The Report regarding the mining leases in Karnataka and associated issues raised in Writ Petition (Civil) No.562/2009 filed by Samaj Parivartan Samudai and others will be filed in due course of time subject to directions of this Hon'ble Court.

This Hon'ble Court may please consider the above Report and may please pass appropriate order in the matter.



**(M.K.Jiwrajka)**  
**Member Secretary**

**Dated: 7.1.2011**