

To,

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Mines Coal & Parliamentary Affairs  
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### Legal Notice

I , M.L.Sharma Advocate, on behalf of the citizen of India to protect their fundamental, legal and constitutional right and national properties rights, am issuing this legal notice to you / your office against your illegal and mala fide actions, what you and your office, having hand with the successful bidders, have done and still in process to change mandatory terms of auction/ agreement

/tenders for 20 iron ore mines coupe with for others mines which will take place in future causing a several lakhs crores financial injury to the general public.

1. That on 6<sup>th</sup> December 2019 you issued notice declaring as follow; -

“In exercise of the powers conferred by Section 10 (B) of the Mines and Minerals (Development and Regulation) Act, 1957 and in accordance with the Mineral (Auction) Rules, 2015 as amended from time to time notified thereunder, the Government of Odisha has identified 20 (twenty) Minerals Blocks as under for electronic auction and hereby invites tenders for the purposes of grant of Mining Lease:

- a) 12 (twelve) mineral blocks of Iron Ore
- b) 2 (two) mineral blocks of Manganese
- c) 6 (six) mineral blocks of Iron Ore and Manganese”.

2. Out of all these iron ore mining blocks 5 were reserved for captive use with a permission to sell 25% of their total mining after consumption of 75% mineral produced.

3. That within the aforesaid notification tender documents were also issued consisting various terms including one of the mandatory terms as follow; -

a. “9. Reserve Price

9.1. The Reserve Price is 35% (thirty five percent) of Value of Mineral Despatched for the Mineral Block. The “Value of Mineral Despatched” shall be an amount equal to the product of-

- (i) mineral despatched in a month; and
- (ii) sale price of the mineral (grade-wise and State-wise) as published by Indian Bureau of Mines for such month of despatch.

9.2. It is clarified that payment in accordance with the Final Price Offer shall be required to be paid monthly in addition to the payment of royalty or dead rent, as applicable.

The model of this auction was forward ascending and that the successful bidder agreeing to pay highest premium in terms of revenue share based on the average sale price of Mineral declared grade wise and State Wise by Indian Bureau of Mines as per the existing rules under Mineral Concession Rules 2016.

The average sale price as declared by IBM within the rule is the weighted average (Grade wise) of the actual sale transaction of merchant mining on ex mine basis including royalty.

- b. Bidders have to do minimum quantity of Iron ore mining every year otherwise they have to pay all cost/ precious and royalties etc upon 80% quantity of the committed mining quantity each year.
4. That within the said terms & conditions aggressive participation was done by the large players and about 190 participants left their bidding in auction process due to final outcome of cost of iron ore being not suitable to them.
5. That after bidding was over around 10 companies were declared as successful bidder entitled for mining and holding iron ore mines situated in the State of Orissa and written agreements have been executed between the bidders and government/ your office. List of the mines and successful bidders are already with you/your office.
6. It is learnt from reliable sources that above said successful bidders, directly/indirectly approached you therefore you and your office are in process to manipulate mandatory terms of the tender documents/ agreement for mining for favouring them as follow; -
  - a. 9.1.(II) Converting average rate of sale price (as published by IBM on a monthly basis ) of mineral based on which all royalty and premium

is to be calculated from state-wise to national-wise through a National Mineral Index.

- b. To give effect to such changes you also intent to include the transactions or transfers done by mining companies for their self-consumption or to some associated companies on cost plus basis to be included in the average sale price of IBM or National Mineral Index to bring down the IBM price of iron ore so that these large companies can be unduly benefitted from paying Royalty and Premium.
  - c. you are changing terms of payment for royalty upon iron ore from 15% to 5 % which was the one of the basis foundations for arriving upon the cost to participate in bidding in Auction of the said Iron ore mines.
  - d. To change terms to sale 25% to 50% iron ore output of Iron ore mining from reserved mines for captive use and auctioned for captive use only.
  - e. To allow 25% iron ore from reserve for captive mines sale in open market without complying mandatory terms of prior consumption of 75% output as captive use.
  - f. Changing of % of “Fe” grad in iron ore from 62% to less % while Since the last 50 years even in last year all these mines has been producing mostly high grade iron ore of above 62% Fe content and now your office is busy in exercise to declare it much less “Fe” contents in the iron ore about 58% to 45% to reduce actual value of iron or rate favouring unlawful gain to successful bidders and los to the states exchequer.
7. That successful bidders who secured captive mines for 75% use for their consumption as captive mining and 25% output of mining to sale in the market is duty bound to consume 75% quantity of committed quantity of

mining iron ore in their plant thereafter on they can sale 25% output of mining of iron ore in the open market each year.

8. That successful bidders are liable to pay all future dues royalties, premium as per the fixed terms of IBM rate within the state rate as per the existing rule only. Any changes directly or indirectly effecting calculation of rate, premium amount, royalty amount and right to sale in market prior of 75% consuming in captive plant or changes to sale 50% of output mining other than 25% is not only illegal but also attract S. 409, 420 & 120-B of IPC read with PC Act upon all concerned persons involved in the above said process for causing wrongful losses to the state and wrongful gain to the successful bidders.
9. That no terms of tender documents/ agreement is allowed to be change in either manner which effect directly or indirectly reducing cost/ value of the iron ore to pay to the state / national exchequer in either manner.
10. That according to the Supreme Court all public assets must be auctioned for the best value based upon open terms and conditions.
11. According to the establish law and decided judgement by the Hon'ble Supreme Court after bidding process is completed, no terms of the auction / tender can be Changed/ revised in any manner.
12. That your above actions, so called changes of any terms if effect directly or indirectly attract financially injury to the state and central exchequer a serious financial loss to public money which attract prosecution u/s. 309, 120-b , 420 of IPC r.w. P.C. Act , jointly and severally to all involved persons as already applied/ imposed in another coal scams case in Coal block allocation case in W.P.(CRL) 120 of 2012 in Manohar lal Sharma v/s Principle Secretary and others.
13. That this advance legal notice is being issued in the interest of citizen of India. Petitioner reserve his all right to file a petition before appropriate forum in future within the aforesaid facts and circumstances in case of

violation of any terms and law directly or indirectly affecting national/  
financial interest of the citizen of India in the interest of justice.



New Delhi : 9.08.2020

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