

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)

Writ Petition (Civil) No. 114 Of 2014

PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

1) COMMON CAUSE
(A REGISTERED SOCIETY)
THROUGH ITS DIRECTOR
5, INSTITUTIONAL AREA
NELSON MANDELA ROAD
VASANT KUNJ, NEW DELHI-110070 ...THE PETITIONER

VERSUS

1) UNION OF INDIA
THROUGH ITS SECRETARY
MINISTRY OF ENVIRONMENT AND FORESTS
PARYAVARAN BHAVAN, CGO COMPLEX
LODHI ROAD, NEW DELHI ... RESPONDENT NO. 1

2) STATE OF ODISHA
THROUGH ITS CHIEF SECRETARY
GOVT. OF ODISHA
BHUBANESWAR, ODISHA ... RESPONDENT NO. 2

3) UNION OF INDIA
THROUGH ITS SECRETARY
MINISTRY OF MINES
A-WING, 3RD FLOOR,
SHASTRI BHAVAN, NEW DELHI-110001 ... RESPONDENT NO. 3

4) ODISHA MINING CORPORATION
THROUGH ITS MANAGING DIRECTOR
POST BOX No. 34, BHUBANESWAR
ODISHA-751001 ... RESPONDENT NO. 4

- 5) ODISHA POLLUTION CONTROL BOARD
THROUGH ITS CHAIRPERSON
PARIBHESH BHAVAN, A/118
NILKANTHA NAGAR, UNIT-8
BHUBANESWAR-751012, ODISHA ... RESPONDENT No. 5
- 6) CENTRAL EMPOWERED COMMITTEE
(EXPERT BODY APPOINTED BY THIS HON'BLE COURT)
THROUGH ITS CHAIRPERSON
2ND FLOOR, CHANKYA BHAVAN
CHANKYA PURI, NEW DELHI-110021 ... RESPONDENT No. 6

To,

**THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS COMPANION
JUDGES OF THE HON'BLE SUPREME COURT OF INDIA**

The Humble Petition of the
Petitioner above-named

MOST RESPECTFULLY SHOWETH: -

1) That the Petitioner Society is filing the instant writ petition in public interest under Article 32 of the Constitution regarding the ongoing loot and plunder of valuable natural resources in the State of Odisha in complete disregard of the environmental norms and the rights of the vulnerable tribal & rural communities, and by allowing few private individuals and companies to make windfall gains, while contributing almost nothing to the state exchequer or to the development of the region. The Justice M B Shah Commission of Inquiry has given scathing reports on the unfortunate state of affairs in Odisha that call for immediate compliance of its recommendations.

Justice Shah Commission has observed that “*all modes of illegal mining are being committed in the State of Odisha*”.

The Petitioner, Common Cause, is a registered society (No. S/11017) that was founded in 1980 by late Shri H. D. Shourie for the express purpose of ventilating the common problems of the people and securing their resolution. It has brought before this Hon'ble Court various Constitutional and other important issues and has established its reputation as a bona fide public interest organization fighting for an accountable, transparent and corruption-free system. Shri Kamal Kant Jaswal, Director of Common Cause and a former Secretary to the Government of India, is authorized to file this PIL. The requisite Certificate & Authority Letter are filed along with the vakalatnama.

The Petitioner Society has not made any representation to the respondent authorities since Justice M B Shah Commission of Inquiry has already submitted detailed reports to the respondents, and the Central Empowered Committee (CEC) has also submitted a report to this Hon'ble Court and the respondents. Moreover, similar petitions and applications are pending (I.A. 3706-3707 of 2013 and I.A. 2746-2748 of 2009 in WPC 202 of 1995, and WPC 435 of 2012) before this Hon'ble Court.

THE CASE IN BRIEF

2) More than two thirds of the State of Odisha is made up of hilly forests and is extremely rich in bio-diversity. It also has a 480 km

coastline and holds 11 per cent of India's surface water resources. Odisha has rich reserves of iron ore, manganese, coal, bauxite and chromite and is therefore the focus & target of the mining industry. Odisha is also one of the poorest states in the country, with a huge population of tribal & rural communities who live an impoverished existence. Far from providing any benefit to the local communities, the huge mining industry has only further impoverished them. The mining industry has also devastated the ecology of the region and poisoned its water sources.

3) According to the Indian Bureau of Mines statistics of 2010-2011, 102,565,000 tonnes of coal, 4,856,808 tonnes of bauxite, 76,128,000 tonnes of iron ore, 655,984 tonnes of manganese ore and 4,317,159 tonnes of chromite were officially extracted in Odisha during that year. The vast quantities of ores being extracted year after year are mostly for export. The extractive industry in Odisha enriches only a few private individuals and companies at a huge cost to the environment and the local communities. Today, Odisha boasts of the presence of big industrial houses like Tata, SAIL, Nalco, Hindalco, and foreign companies, such as Posco, Arcelor Mittal, Rio Tinto, Alcan etc. The Odisha Mining Corporation, a giant mining PSU, also operates in the state along with scores of other mining companies.

4) The State of Odisha performs very poorly in terms of human development indicators, with an extremely poor HDI index of 0.404, which is much lower than other mineral rich states. Having regard to

food availability and access, Odisha has been put in the category of 'severely food insecure' regions. According to the state's Human Development Report, the relative per capita income has declines vis-à-vis of all other low-income states during the second half of the 1990s, which precisely is the period during which the state went into an industrial and mining overdrive. According to the state Human Development Report, Odisha's per capita income was three-fourths that of the all-India average, and declined further to half by the end of the 1990s.

5) Most of the heavily mined regions of Odisha are home to millions of vulnerable and poor indigenous and tribal communities. In the mining districts of Sundergarh, Koraput and Mayurbhanj, the tribals accounts for more than 50% of the population, while in Keonjhar district they are more than 44% of the population. The continuing influx of outsiders due to large-scale mining in Angul and Jajpur districts has made the tribals a minority in their own land. According to the state Human Development Report, the poverty ratio has actually increased in the southern and northern regions of the state (which comprise the mining districts) from 1993 to 2000. This is so despite an overall decrease in the poverty ratio for the whole of Odisha. An estimated 75% of the state's poor live in these northern and southern regions which are badly ravaged by the mining industry.

6) A study on impact of mining in Odisha was carried out by the Centre for Science & Environment (CSE), a reputed and highly

credible non-governmental organization whose reports are often relied upon by this Hon'ble Court on environmental issues. CSE's State of India's Environment Report (2008) titled "Rich Lands, Poor People" notes, "*massive environmental loss and contamination..forests have been ravaged, and landscapes altered. Water sources are drying up or are severely polluted, and air pollution is rising. Large-scale displacement and losses in traditional livelihoods have-inevitably-accompanied the environmental set-backs. And as a result of all this, conflicts and tension across the state are on the boil. Local communities are up in arms over the state cosyng up to industrial interests in blatant disregard of their rights and welfare.*" A copy of the said study published in 2008 is annexed as **Annexure P1** (Pages _____).

7) The Comptroller & Auditor General of India (CAG) in its report for the year 31.03.2008 had also raised objections regarding the mining going on in forest areas in Odisha without statutory approvals and also the excess quantity of mineral extracted/transported without making any payment of royalty. Based on this and other material regarding large scale illegal mining in Odisha, an application was filed by one Rabi Das, Editor of newspaper Ama Rajdhani (being I.A. no. 2746-2748 of 2009 in WPC 202/1995) seeking a direction to the State and Central Government to take effective and appropriate action to ensure closure/stoppage of all the illegal mining and prosecution of those found in illegal mining. The said IA is pending before this Hon'ble Court where some orders have been passed. This IA was

referred to the Central Empowered Committee (CEC) which after an inquiry submitted its report on 26.04.2010. A copy of the said report is annexed as **Annexure P2** (Pages _____).

8) This was for the first time the mining sector in an entire state was analyzed and reported by the CEC. After Odisha, CEC has studied and reported on the illegal mining and impact of mining in the states of Karnataka and Goa. In both these states huge illegalities and environmental devastation were found forcing an intervention by this Hon'ble Court. In its 2010 report on Odisha, CEC found:

“a) mining activities are going on in a large number of the mines in Orissa without the requisite approvals under the Forest (Conservation) Act 1980, Environmental Clearances, and the Air & Water Acts. The mining activities also exceeded the production limit as approved under the mining plans.

b) a large number of mines have remained operational for long periods of time after the expiry of the lease period because of the delays in taking decisions on the renewal applications filed by the respective mining lease holders and consequently the mines becoming eligible for 'deemed extension' as provided under Rule 24A(6), MCR, 1960.

c) in a large number of cases the forest areas approved under the FC Act are lesser than the total forest area included in the approved mining leases, and

d) there was lack of effective coordination and common understanding between the officials of the Mines Department and the Forest Department resulting in the ineffective enforcement of the statutory provisions.”

The CEC recommended various steps for remedying the situation of large-scale illegal mining in the said report, but the same have not been implemented and illegalities have only increased as is clear from the recent facts and findings that have come to light.

9) In the context of a public outcry over reports of large-scale illegal mining, especially of iron ore, in various parts of the country, the Central Government by a notification dated 22.11.2010 appointed a Commission of Inquiry headed by Justice M B Shah. The mandate of the Commission was to inquire and report about illegal mining of iron ore and manganese ore in contravention of the provisions of the Mines and Minerals (Development and Regulation) Act, 1957, the Forest (Conservation) Act, 1980, the Environment (Protection) Act, 1986 or other rules or guidelines issued thereunder. The notification states that there are reports that mining of iron and manganese ore is being done illegally in the following manners: mining without a licence, mining outside lease area, not paying royalty, mining in contravention of mining plan, tampering of records and permits etc. The notification also asked the Commission *“to inquire into the overall impact of such mining in terms of destruction of forest wealth, damage to environment, prejudice to the livelihood and other rights of tribal*

people, and the financial losses caused to the Central and State Governments”.

10) The Justice Shah Commission had appointed his eminent team of investigators including Shri U V Singh, who was the lead investigator of the former Karnataka Lokayukta Justice Santosh Hegde for the reports on illegal mining in Karnataka. The Justice Shah Commission has submitted various interim reports. Its detailed report on led to State of Goa, Central Government and this Hon’ble Court (in WPC 435 of 2012) passing orders banning mining in the entire Goa. All the three orders are in force today. Justice Shah Commission commenced its inquiry into illegal mining in the State of Odisha, and the state governments and mining companies made detailed submissions to the Commission. The Commission also conducted several public hearings and field visits.

11) After its detailed study, the Justice Shah Commission submitted 5 volumes report on the illegal mining of iron ore and manganese ore in the State of Odisha on 01.07.2013 and submitted 3 volumes of the second report on State of Odisha on 14.10.2013. Hence the Commission has submitted in total 8 volumes of report on illegal mining in Odisha.

12) Though the Government has kept the report top secret and has not tabled it in Parliament, in violation of the 6 month limit prescribed under the Commission of Inquiry Act, the first 2 volumes of the 8

volumes submitted by the Commission have been leaked and are available in public domain (<http://gulail.com/volume-1.pdf> and <http://gulail.com/volume-2.pdf>). The first volume also contains an executive summary of the report that shows a very bleak state of affairs and total lawlessness. A copy of the few relevant chapters of Commission's report that are in public domain is annexed as **Annexure P3** (Pages _____).

13) The Justice Shah Commission in its report states the following:

"1. From the inquiry conducted by this Commission, it is apparent that all modes of illegal mining...are being committed in the State of Odisha.

2. Based on the facts gathered and analysis to them highlight a complete disregard and contempt for law and lawful authorities on the part of many among the emerging breed of entrepreneurs, taking undue advantage of country's natural non-renewable assets/resources for export earnings...

3. Secondly, it appears that law has been made helpless because of its systematic non-implementation."

14) The Commission has found the following grim state of affairs that show total lawlessness, as is clear from the executive summary enclosed with volume 1 of the report:

a) In 147 cases, mining lease renewal applications are not decided in time (many pending for more than 15 years) and thereby allowing lessees to continue in possession of the leasehold property without execution of lease deeds. The Commission states that the sufferer is the government and such long delay breeds corruption at all levels.

b) In 98 of the 176 mines which are in forest areas, there is no forest clearance from the MoEF and yet are operating.

c) 55 mines are located immediate next to water resources or rivers, where communities are dependent on such water for drinking. There is large-scale water pollution

d) 10 leases fall within 10kms from the Simlipal National Park.

e) 31 mines are adjacent to the projected elephant corridor.

f) Widespread air pollution with huge dust in villages

g) In 94 of the 192 mining leases, there is no Environment Clearance, and yet in 53 out of these 94 leases, iron ore is extracted and in 25 manganese ore is extracted.

h) In 130 mining leases, there is excess production of iron or manganese ore.

i) Permission granted so far for extraction of 154.263 million tonnes by IBM and MoEF would mean that the total reserves would last only for 30 years.

j) In 82 mining leases, there is encroachment of lease area.

15) The Justice Shah Commission after analyzing the situation on the ground in detail, and after studying the various judgments of this Hon'ble Court has categorically said that the only proper method for grant of mining leases (and their renewals), which would maximize state revenue and also be competitive, is a duly publicized public auction or competitive bidding. This stand is also supported by the Government of Odisha whose Chief Minister has repeatedly written to the Centre to allow grant of mining leases by competitive bidding and increasing the state's revenue in the process. However the Central Government has ignored these recommendations and demands.

16) After the Justice Shah Commission submitted its report on the illegal mining in Goa and started its inquiry in Odisha, the Government of Odisha started proceedings for recovery of amounts involved in illegal mining. As many as 146 notices have been issued by the State Government to various leaseholders for recovery of mineral value as per Section 21(5) of MM(DR) Act 1957 for mining in violation of various laws during the period 2000-01 to 2009-10. Value of the unlawful extraction of iron and manganese ore as quantified by the State Government itself comes to be a whopping Rs 59,203 crores. The Commission has noted this and stated: *"Let the State Government recover the said amount, by finalizing the proceedings on the basis of the notices, as early as possible and use the said amount for the development of the two Districts, namely, Keonjhar and Sundargarh which are badly affected by illegal excess mining. This at least can remove the poverty of the tribals who are affected or whose*

lands are used for mining purpose.” However, till date no proper recovery has been made and lessees have reportedly approached courts and have obtained interim orders.

17) The Justice Shah Commission has recommended the capping of the production of iron ore in the interest of environmental sustainability and inter-generational equity. The Commission has also recommended an immediate prohibition on export of iron ore. Both of these suggestions have been accepted and supported by the Government of Odisha, but the Central Government has ignored these demands. The Senior Counsel for the State of Odisha produced before the several letters written by the State Government to the Central Government recommending:

- a) prohibition on export of iron ore
- b) imposition of mineral resources rent tax on iron ore
- c) competitive bidding of mineral resources
- d) reservation of mineralized areas for Odisha Mining Corporation
- e) captive use and equitable distribution
- f) capping of production of iron ore
- g) correction of under-estimation of sale value
- h) increase in royalty on iron ore

However, each of these demands of the State Government was ignored and not acted upon by the Central Government despite the fact that under our Constitution, State is the owner of minerals and as

a lessor, it has a right and duty to impose conditions on the mining lessees in public interest. Justice Shah Commission in its report has agreed with these suggestions particularly the ones on competitive bidding, reservation of mineralized areas for the State PSU, captive use and capping the production of iron ore.

18) The Commission in its field visits also observed large scale air and water pollution, and observed its deleterious impact on the quality of life, livelihood and agriculture of villagers and tribals. The Commission in its report observes: “...*there are widespread setting of dust on natural vegetation in general and tress in specific camouflaged with the colour of minerals. From this situation, imagine the fate of the villagers in habitat in these areas who did not have any option but to breathe polluted air and chunked their lungs with dust. This results in many airborne diseases... Large scale mining operations have resulted to deplete and pollute the ground and surface water in the neighbourhood. It is villagers’ unfortunate fate of life.*”

19) The Commission has found that out of 192 mining leases of iron ore/manganese ore in Odisha, as many as 94 mining leases do not have any environmental clearance. The Commission has also found that 109 leases are/were working under the deemed extension and doing production in violation of EIA Notifications of 1994 and 2006. Also, in 98 of the 176 mines that are in forest areas of Odisha, there is no forest clearance from the MoEF and yet they are operating. The

Central Government has refused to make the reports submitted by Justice Shah Commission public despite the order passed by this Hon'ble Court on 13.01.2014 in I.A. 3706-3707 of 2013 filed in WPC 202 of 1995 directing the Centre to file the Commission's report on Odisha and Jharkhand before this Hon'ble Court by 27.01.2014. A copy of the relevant pages of the said order dated 13.01.2014 is annexed as **Annexure P4** (Pages _____). This Hon'ble Court has on 27.01.2014 in I.A. No. 2746-2748 of 2009 filed in WPC 202 of 1995 directed the State of Odisha to constitute an SPV for the development of the tribals from the NPV received from the mining lessees. A copy of the said order is annexed as **Annexure P5** (Pages _____).

20) Therefore, it is clear from the reports of the Centre for Science & Environment, Central Empowered Committee and Justice M B Shah Commission of Inquiry (all referred above), that there is large scale illegal mining in the State of Odisha leading to massive loss of revenue for the exchequer, huge environmental devastation, suffering of villagers and tribals, political & social instability and erosion of rule of law. Therefore, certain immediate directions are required from this Hon'ble Court, and also a credible thorough investigation and recovery of the loss suffered.

21) The petitioner has not filed any other writ, complaint, suit or claim in any manner regarding the matter of dispute. The petitioner has no other better remedy available. Similar petitions and applications are pending (I.A. 3706-3707 of 2013 and I.A. 2746-2748

of 2009 in WPC 202 of 1995, and WPC 435 of 2012) before this Hon'ble Court.

22) Since this is a public interest matter, and there is an asymmetry of availability of information, the petitioner seeks liberty from this Hon'ble Court to produce other documents and records as and when required in the course of the proceedings, and as and when they become available to the petitioner.

GROUND

A. That the ongoing loot and plunder of valuable natural resources in the State of Odisha in complete disregard of the environmental norms and the rights of the vulnerable tribal & rural communities, and by allowing few private individuals and companies to make windfall gains, while contributing almost nothing to the state exchequer or to the development of the region, is in violation of right of the people guaranteed under Article 14 and 21 of the Constitution of India. The reports of the Centre for Science & Environment, Central Empowered Committee and Justice M B Shah Commission of Inquiry (all referred above), have all found that there is large scale illegal mining in the State of Odisha leading to massive loss of revenue for the exchequer, huge environmental devastation, suffering of villagers and tribals, political & social instability and erosion of rule of law.

B. That Centre for Science & Environment (CSE) in its study on Odisha mining (2008), published in its State of India's Environment report "Rich Lands, Poor People", found *"massive environmental loss and contamination..forests have been ravaged, and landscapes altered. Water sources are drying up or are severely polluted, and air pollution is rising. Large-scale displacement and losses in traditional livelihoods have-inevitably-accompanied the environmental set-backs. And as a result of all this, conflicts and tension across the state are on the boil. Local communities are up in arms over the state cosyng up to industrial interests in blatant disregard of their rights and welfare."*

C. That in its 2010 report on Odisha, Central Empowered Committee (CEC, expert body appointed by this Hon'ble Court) in its report submitted in I.A. 2746-2748 of 2009 in WPC 202 of 1995 stated *"mining activities are going on in a large number of the mines in Orissa without the requisite approvals under the Forest (Conservation) Act 1980, Environmental Clearances, and the Air & Water Acts. The mining activities also exceeded the production limit as approved under the mining plans... a large number of mines have remained operational for long periods of time after the expiry of the lease period because of the delays in taking decisions on the renewal applications filed by the respective mining lease holders and consequently the mines becoming eligible for 'deemed extension' as provided under Rule 24A(6), MCR, 1960... in a large number of cases the forest*

areas approved under the FC Act are lesser than the total forest area included in the approved mining leases”.

D. That Justice M B Shah Commission of Inquiry in its report submitted on 01.07.2013 has found *“From the inquiry conducted by this Commission, it is apparent that all modes of illegal mining...are being committed in the State of Odisha... Based on the facts gathered and analysis to them highlight a complete disregard and contempt for law and lawful authorities on the part of many among the emerging breed of entrepreneurs, taking undue advantage of country’s natural non-renewable assets/resources for export earnings... it appears that law has been made helpless because of its systematic non-implementation”.*

E. That the Justice Shah Commission report has reported that out of 192 mining leases of iron ore/manganese ore in Odisha, as many as 94 mining leases do not have any environmental clearance. The Commission has also found that 109 leases are/were working under the deemed extension and doing production in violation of EIA Notifications of 1994 and 2006. Also, in 98 of the 176 mines that are in forest areas of Odisha, there is no forest clearance from the MoEF and yet they are operating. That the Comptroller & Auditor General of India (CAG) in its report for the year 31.03.2008 had also raised objections regarding the mining going on in forest areas in Odisha without statutory approvals and also the excess quantity

of mineral extracted/transported without making any payment of royalty.

F. That as per the law propounded in the 2G case ((2012) 3 SCC 1), the State, as a trustee of natural resources. This Court held: *“Natural resources belong to the people but the State legally owns them on behalf of its people... The State is empowered to distribute natural resources. However, as they constitute public property/national asset, while distributing natural resources, the State is bound to act in consonance with the principles of equality and public trust and ensure that no action is taken which may be detrimental to public interest. Like any other State action, constitutionalism must be reflected at every stage of the distribution of natural resources.”* The same has been confirmed in the opinion dated 27.09.2012 in Presidential Reference (Spl Ref 1 of 2012) by stating that natural resources cannot be allocated to private profiteers without a corresponding gain to the public, and windfall gains are clearly impermissible. It states that when *“precious and scarce natural resources are alienated for commercial pursuits of profit maximizing private entrepreneurs, adoption of means other than those that are competitive and maximize revenue may be arbitrary and face the wrath of Article 14 of the Constitution.”*

G. That this Hon'ble Court has also held that the collusion between the extractive industry (“the mining mafia”) and some agents of the State, leads to failure of the State and violates Articles 14 &

21 of the Constitution. This Court in Nandini Sunder's case (2011) 7 SCC 547 has held: "...A *development paradigm depending largely on the plunder and loot of the natural resources more often than not leads to failure of the State; and that on its way to such a fate, countless millions would have been condemned to lives of great misery and hopelessness. Policies of rapid exploitation of resources by the private sector, without credible commitments to equitable distribution of benefits and costs, and environmental sustainability, are necessarily violative of principles that are "fundamental to governance", and when such a violation occurs on a large scale, they necessarily also eviscerate the promise of equality before law, and equal protection of the laws, promised by Article 14, and the dignity of life assured by Article 21. Additionally, the collusion of the extractive industry, and in some places it is also called the mining mafia, and some agents of the State, necessarily leads to evisceration of the moral authority of the State, which further undermines both Article 14 and Article 21.*"

H. That the Justice Shah Commission has also found that present rate of extraction of ore is unsustainable, environmentally destructive and violates the principles of inter-generational equity. This Hon'ble Court in several judgments has held that "inter-generational equity" is part of the principle of "sustainable development" which is an important facet of Right to Environment and Right to Life guaranteed under Article 21 of the Constitution. In Glanrock case (2010) 10 SCC 96, a 3 judge

bench of this Hon'ble Court held: *"Forests in India are an important part of environment. They constitute national asset. In various judgments of this Court delivered by the Forest Bench of this Court in the case of T.N. Godavarman v. Union of India [Writ Petition No. 202 of 1995], it has been held that "inter-generational equity" is part of Article 21 of the Constitution. What is inter-generational equity? The present generation is answerable to the next generation by giving to the next generation a good environment. We are answerable to the next generation and if deforestation takes place rampantly then inter-generational equity would stand violated. The doctrine of sustainable development also forms part of Article 21 of the Constitution."*

- I. That the prevailing corruption in the country in high places seriously impairs the right of the people of this country to live in a corruption free society governed by rule of law. This is a violation of Article 21 of the Constitution. The right to life guaranteed to the people of this country also includes in its fold the right to live in a society, which is free from crime and corruption.

PRAYERS

In view of the facts & circumstances stated above, it is most respectfully prayed that this Hon'ble Court in public interest may be pleased to: -

a. Issue a writ of mandamus or any other appropriate writ directing the Union of India and Government of Odisha to immediately stop forthwith all illegal mining in the State of Odisha and to terminate all leases that are found to be involved in illegal mining and mining in violation of the provisions of the Forest Conservation Act 1980, the environment laws and other laws.

b. Issue a writ of mandamus or any other appropriate writ directing the Union of India and Government of Odisha to take action against all the violators involved either directly or indirectly in illegal mining including those named in the report of Justice Shah Commission.

c. Issue a writ of mandamus or any other appropriate writ directing a thorough investigation by an SIT or CBI under the supervision of this Hon'ble Court, as is recommended by the Justice Shah Commission, into illegal mining in Odisha and collusion between private companies/individuals and public officials of the State/Central Governments.

d. Issue a writ of mandamus or any other appropriate writ directing an appropriate agency to conduct a macro environmental impact assessment (macro EIA) that would include identification of ecologically sensitive areas where no mining would be allowed and would include capping of production of ores of iron, manganese, bauxite etc. keeping in view the principles of environmental sustainability and inter-generational equity.

e. Issue a writ of mandamus or any other appropriate writ directing the respondents to recover the illegally accumulated wealth through illegal mining and related activity, as per Section 21(5) of the MMDR Act, 1957 and launch prosecutions under 21(1) of the MMDR Act 1957, and direct that the money recovered would be used for the welfare of local communities, tribals and villagers.

f. Issue a writ of mandamus or any other appropriate writ directing the Respondents to repair, restore and re-vegetate the area in accordance with established forestry practices in terms of the National Forest Policy, 1988 and to require all mining lessees / occupants operating in forest land and in land covered by trees to pay a fine and compensate for such repairs, restoration and re-vegetation.

g. Issue a writ of mandamus or any other appropriate writ directing that all fresh mining leases and renewal of leases shall be granted only by public auction or competitive bidding in order to ensure transparency and revenue for the State, as has been recommended by the Justice Shah Commission and the Government of Odisha.

h. Issue a writ of mandamus or any other appropriate writ constituting a joint team for a time-bound survey and demarcation of all the leases, and immediate termination and prosecution of the leaseholders found to have encroached outside their lease area or extracted ore in violation of the mining plan/lease agreement.

i. Issue a writ of mandamus or any other appropriate writ directing an immediate prohibition of export of iron ore from Odisha as is recommended by the Justice Shah Commission and the Government of Odisha, and also directing that all sale of iron ore would be through e-auction only as is being followed in Karnataka and has been recommended by the Justice Shah Commission.

j. Issue a writ of mandamus or any other appropriate writ directing the Central Empowered Committee (CEC) to submit a detailed report on the facts stated in the instant petition, the reports submitted by Justice Shah Commission and other documents on the illegal mining and impact of mining in State of Odisha, and further direct all authorities to cooperate and provide all information to the CEC.

k. Issue or pass any writ, direction or order, which this Hon'ble court may deem fit and proper under the facts and circumstances of the case.

Petitioner
Through

PRASHANT BHUSHAN
Counsel for the Petitioner

Drawn by: Pranav Sachdeva
Drawn & Filed On: February 2014
New Delhi