

**PART-HEARD**

**ITEM NO.301**

**COURT NO.1**

**SECTIONS XIIIA,X,PIL,IVA**

**S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS**

**Petition(s) for Special Leave to Appeal (Civil) Nos.7366-7367/2010**

**(From the judgement and order dated 26/02/2010 in WP No.25910/2009 and WP No.26083/2009 of The HIGH COURT OF A.P. AT HYDERABAD)**

**GOVT.OF A.P.& ORS.**

**Petitioner(s)**

**VERSUS**

**M/S OBULAPURAM MINIG.CO.P.LTD.& ORS. ETC.**

**Respondent(s)**

**(With appln(s) for exemption from filing c/c of the impugned judgment, directions, prayer for interim relief and office report)**

**With S.L.P. (C) Nos.32690-32691/2010**

**(With prayer for interim relief and office report)**

**W.P. (Crl.) No.66 of 2010**

**(With appln(s) for directions and office report)**

**S.L.P. (C) Nos.17064-17065 of 2010**

**(With appln.(s) for vacating stay, prayer for interim relief and office report)**

**Writ Petition (C) No.562 of 2009**

**(With appln(s) for ex-parte stay, permission to file additional documents, exemption from filing O.T., directions and impleadment)**

**S.L.P. (C) No...../2010 (CC 16829/2010)**

**(With appln(s) for c/delay in filing SLP and office report)**

**S.L.P. (C) No...../2010 (CC 16830/2010)**

**(With appln(s) for c/delay in filing SLP and office report)**

**Writ Petition (C) No.411 of 2010**

**(With appln.(s) for directions and office report)**

**S.L.P. (C) No.353 of 2011**

**(With prayer for interim relief and office report)**

**S.L.P. (C) Nos.15655-15658/2011**

**(With appln(s) for permission to file SLPs, prayer for interim relief and office report)**

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S.L.P. (C) Nos.15659-15684/2011  
(With appln(s) for permission to file SLPs, prayer for interim relief and office report)

Date: 05/08/2011 These Matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE AFTAB ALAM  
HON'BLE MR. JUSTICE SWATANTER KUMAR

Mr. Shyam Divan, Sr. Adv. (A.C.)  
Mr. A.D.N. Rao, Adv. (A.C.)  
Mr. Siddharth Chaudhary, Adv. (A.C.)

For Petitioner(s) Mr. Goolam E. Vahanvati, AG.  
In SLP 7366-67/2010: Mr. T.V. Ratnam, Adv.

In SLP 17064-65/2010: Mr. Parag P. Tripathi, ASG.  
Mr. T.V. Ratnam, Adv.

In SLP 32690-91/2010: Mr. Sindhu T.P., Adv.  
Mr. P.V. Vinod, Adv.  
Mr. P.V. Dinesh, Adv.

In WP 66/2010: Mr. Prashant Kumar, Adv  
Ms. Triveni Potekar, Adv.  
Mr. Amit Singh, Adv.  
Mr. Merusagar Samantaray, Adv.

In WP 562/2009: Mr. Prashant Bhushan, Adv.  
Mr. Pranav Sachdeva, Adv.

In CC 16829/2010 and 16830/2010: Mr. Sridhar Potaraju, Adv.

In WP 411/2010: Mr. Anil B. Divan, Sr. Adv.  
Mr. Krishnendu Goptu, Adv.  
Mr. Ranvir Singh, Adv.  
Mr. P. Ramesh Kumar, Adv.

In SLP 353/2011: Mr. G. Umapathy, Adv.  
Ms. Sudha Umapathy, Adv.  
Mr. Rakesh K. Sharma, Adv.

In SLP 15655-58/11 & 15659-84/11/2011: Mr. A.D.N. Rao, Adv.

**For Respondent(s)**

Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Huzefa Ahmadi, Adv.  
Mr. K. Raghavacharayulu, Adv.  
Mr. Sridhar Potaraju, Adv.  
Mr. G. Prabhakar, Adv.  
Mr. G. Gaochangpou, Adv.

**For MoEF:**

Mr. Goolam E. Vahanvati, AG.  
Mr. Harris Beeran, Adv.  
Mr. Nishanth Patil, Adv.

Mr. Gaurav Banerjee, ASG.  
Mr. H.P. Raval, ASG.  
Mr. Ashok Bhan, Adv.  
Ms. Asha G. Nair, Adv.  
Mr. Satya Siddiqui, Adv.  
Mr. S.S. Rawat, Adv.  
Mr. Anando Mukherjee, Adv.  
Mr. Harsh N. Parekh, Adv.  
Ms. Ranjana Narayan, Adv.  
Mr. Shailendra Kumar Mishra, Adv.  
Mr. B.K. Prasad, Adv.  
Mr. D.S. Mahra, Adv.

Mr. Rakesh K. Sharma, Adv.

Mr. Krishan Venugopal, Sr. Adv.  
Mr. P.V. Dinesh, Adv.  
Mr. Siddhartha, Adv.

**For Karnataka:**

Mr. Raju Ramachandran, Sr. Adv.  
Mr. R.G. Kolle, Adv.  
Ms. Anitha Shenoy, Adv.  
Ms. Rashmi Nandakumar, Adv.

Mr. G.N. Reddy, Adv.

Mr. P.P. Malhotra, ASG.  
Mr. Gaurav Sharma, Adv.  
Ms. Sukhbeer Kaur Bajwa, Adv.  
Mr. S.N. Terdal, Adv.

Mr. Harin P. Raval, ASG.  
Mr. Ashok K. Srivastava, Adv.  
Mr. B.K. Prasad, Adv.

Dr. A.M. Singhvi, Sr. Adv.  
Mr. Sanjeev K. Kapoor, Adv.  
Mr. Rajat Jariwal, Adv.  
for M/s. Khaitan & Co., Adv.

For FIMI:

Mr. D.A. Dave, Sr. Adv.  
Ms. Kiran Suri, Adv.  
Mr. K.N. Phanindra, Adv.

Mr. F.S. Nariman, Sr. Adv.  
Mr. Sunil Dogra, Adv.  
for M/s. Lawyers Knit and Co., Adv.

Ms. C.K. Sucharita, Adv.

Mr. A.K. Sharma, Adv.

Mr. Sanjay R. Hegde, Adv.  
Mr. Anil Kumar Mishra, Adv.

Mr. Ranjit Kumar, Sr. Adv.  
Mr. Jay Savla, Adv.  
Mr. D. Julius Raimei, Adv.  
Mr. Sumit Ghosh, Adv.  
Ms. Renuka Sahu, Adv.

Mr. S. Ganesh, Sr. Adv.  
Mr. Syed Naqvi, Adv.  
Ms. Namrata Kapoor Sharma, Adv.  
Ms. Tina Chakma, Adv.  
Mr. Kunal Verma, Adv.

Mr. D.L.N. Rao, Sr. Adv.  
Mr. S.K. Kulkarni, Adv.  
Mr. M. Gireesh Kumar, Adv.  
Mr. Ankur S. Kulkarni, Adv.

Mr. R.S. Suri, Sr. Adv.  
Mr. Avinash Kumar, Adv.  
Mr. K.S. Prasad, Adv.

For NMDC Ltd.:

Mr. Parag P. Tripathi, ASG.  
Mr. S. Sukumaran, Adv.  
Mr. Devadatt S. Kamat, Adv.  
Mr. Anand Sukumar, Adv.  
Mr. Bhupesh Kumar Pathak, Adv.  
Mr. Anuj Bhandari, Adv.  
Ms. Meera Mathur, Adv.

Mr. Shekhar G. Devasa, Adv.  
Mr. Aljo K. Joseph, Adv.  
Mr. Rohit Pandey, Adv.  
Mr. D.K. Garg, Adv.

Mr. P. Viswanatha Shetty, Sr. Adv.  
Mr. Sashi Karan Shetty, Adv.  
Dr. Sushil Balwada, Adv.

Dr. A.M. Singhvi, Sr. Adv.  
Mr. Sanjeev K. Kapoor, Adv.  
Mr. Rajat Jariwal, Adv.  
Mr. Gaurav Juneja, Adv.

For Mysore Minerals  
Ltd.

Mr. Balaji Srinivasan, Adv.  
Mr. A.K. Vasanth, Adv.

Mr. Anil B. Divan, Sr. Adv.  
Mr. Krishnendu Gooptu, Adv.  
Mr. Ranvir Singh, Adv.  
Mr. P. Ramesh Kumar, Adv.

UPON hearing counsel the Court made the following  
O R D E R

We direct macro level EIA study to be undertaken by Indian Council of Forestry Research and Education [ `ICFRE' , for short] in collaboration with Wildlife Institute of India, FSI and such other domain experts, as may be decided by ICFRE in consultation with Ministry of Environment and Forest [ `MoEF' , for short]. This would be in respect of the Bellary district. The MoEF will frame a detail Terms of Reference for the proposed study within one week. The macro level EIA study shall also indicate whether the district of Bellary constitutes one single environmental unit or it constitutes more than one unit with different degrees of environmental degradation. The Report

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shall be submitted within three months. It shall be open to the FIMI and the petitioner in Writ Petition (C) No.562 of 2009 to provide necessary inputs to ICFRE, which will also be taken into account while submitting the macro level EIA study Report.

NMDC has mining leases in the Bellary district. The particulars of lessee-wise iron ore production for the mines held by NMDC is given hereinbelow:

S.No.	Lessee Name	M.L. No.	Extent (Hect.)	IBM CONSENT (MITPA)	STATUS	2008-2009 (In metric tonnes)		2009-2010 (In metric tonnes)		2010-2011 (In metric tonnes)	
						Producti-on	Despatc-h	Producti-on	Despatc-h	Producti-on	Despatch
Hospet Sector											
1.	NMDC	1111	647.5	7.0000	Working	1488875.00	543373.00	457052.00	701745.00	0.00	813978.00
2.	NMDC	2396	608	7.0000	Working	5437621.00	5112617.00	5582289.00	5485528.00	4217862.00	4427172.00

We are informed that, as far as Sr. No.1 is concerned, the production is 'nil' for the Financial Year 2010-2011 ending on 31<sup>st</sup> March, 2011. This is on account of stay Order given by the High Court of Karnataka in Writ Appeal Nos.1134/2009 and 1135/2009. As far as Sr. No.2 is concerned, that problem does not exist.

In order to balance the environmental concerns with economic development and keeping in mind the mandate of Article 21 of the constitution, including inter-generational equity, we are of the view that in extra-ordinary circumstances, NMDC alone be allowed to operate it's mines under Sr. Nos.1 and 2 to the extent of providing one million tonnes per month commencing from 6<sup>th</sup> August, 2011,

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till further orders. Further, we make it clear that the State of Karnataka will charge royalty on the basis of ten per cent of the current market value of the iron ore. NMDC will maintain Accounts in that regard. Today, the State of Karnataka has been charging royalty at the rate of ten per cent of the rates as determined by IBM at the pithead. The differential between that rate and the market rate will be accounted for by the State of Karnataka. We make it clear that differential rate will be deployed for rehabilitation purpose of the area concerned.

We may clarify that no part of this production shall be exported outside India till further orders. NMDC will sell the production to the States in consultation with Ministry of Steel, Government of India.

The State of Karnataka is hereby directed to submit the reclamation and rehabilitation plan of the Bellary district within three months.

[ T.I. Rajput ]  
A.R.-cum-P.S.

[ Madhu Saxena ]  
Assistant Registrar