To:
Ministry of Mines
Government of India
3rd Floor, A Wing, Shastri Bhavan
New Delhi, 110001, India

Subject: Wrongful termination of the Justice MB Shah Commission of Inquiry prior to completion of investigation

Dear Sir/Madam,

The Justice MB Shah Commission of Inquiry was constituted in 2010 by the Ministry of Mines in response to the growing number of cases of illegal contracting, flouting of royalty payments and encroachment on public lands by large and small scale iron ore and manganese ore mining operations throughout the country. Since then the Commission's investigations have led to the closure of hundreds of illegally operating mines, along with raising the national consciousness on this crucial subject of public concern. The unbudging stance of the commission, and also its willingness to hear representations from civil society, has been viewed as a bulwark of environmental and democratic interests.

The Commissions' duration allotted for investigation is now coming to a close, with its 16th October 2013 deadline rapidly approaching, yet the Commission has not visited three of the states listed in its TOR (Chhattisgarh, Maharashtra, and MP). Having anticipated this, Ms Samantha Agarwal made numerous inquiries between July and September 2013 to the Commission's Primary Investigator, Dr. UV Singh on our behalf, and he assured that the commission would go to pains to complete the investigation. Twice in the past, the Ministry of Mines extended the duration of the Commission upon the latter's requests, so it was assumed that the same procedure would be followed if the allotted time fell short to come to Chhattisgarh. However, on October 1st Ms Agarwal was informed by Dr. Singh that although the Commission has requested an extension to complete the investigation, the Ministry of Mines has categorically denied its request, thus the MB Shah Commission of Inquiry would no longer be coming to Chhattisgarh. He then said that the commission would send a “preliminary” report to the Ministry without visiting the mining areas. Dr. Singh said he could not disclose the reason for the rejection, although he expressed his opinion that the investigation should continue.

The termination of a Commission in Inquiry as per the Commissions of Inquiry Act (1952) can only be done if the Ministry provides a written reasoning as to why the commission is no longer required. By not giving any reason in writing but just allowing the time period of the Commission to lapse, the Ministry thinks it can evade public scrutiny. It is assuming that it can evade its responsibility to the numerous social and environmental groups who have been relying on the fact that the Commission would address serious legal violations in mining operations in the states of Chhattisgarh, Madhya Pradesh and Maharashtra which require the most urgent and immediate attention. Such groups have prepared well
researched written representations to this end.

For anyone who is conversant with the mining scenario in these states, the need for a thorough inquiry into matters pertaining to the environment and forests is clear. In Chhattisgarh it is well known that the NMDC's Bailadila mine is illegally dumping thousands of tonnes of iron ore fines in the Indravati, Shankhini and Dankini rivers. As far back as 1990, the Union Government's science and technology cell reported that NMDC's mining activity and release of effluents into the rivers had damaged not only the rivers but also 35,000 ha of agricultural and forest land around Bailadila. Four years later, the state government also declared that 65 villages along the Shankhini and Dankini were affected by the polluted waters and ordered NMDC to dig some 200 wells to provide safe drinking water for these villages. The wells were dug but were too shallow and not even one of them is functional today.

The situation in Dalli Rajhara Mines, after fifty years of mining by the Bhilai Steel Plant (BSP), is not much better. Here 90% of the forest land has been converted to open pit mines, which has led to the disappearance of hundreds of bore wells and a consequent severe ground water crisis.

Overall, the present scenario is that 18 MLs have been sanctioned for iron ore mining of 8758.25 ha of land in Chhattisgarh. The majority of these mines (12 of the 18) are in Bastar region. District-wise Dantewada is the top iron ore producer in the state, accounting for 69 per cent of the total output.

The forest cover here is as high as 62 per cent, while the tribal population is 79 per cent. For these mines, the adivasis have been displaced from their land illegally, in contravention of the Panchayats Extension to Scheduled Areas Act, 1996 and the Forest Rights Act, 2006. In BSP's 2028.797 hectare Rowghat iron ore mine virtually none of the affected gram sabhas have granted consent for forest diversion under FRA, which is a requirement for the issuing of Forest Clearance underneath the Forest Conservation Act (1980). As its terms of reference also required the Commission to look into the overall impact of mining, including its impact on the livelihood of adivasi and forest dwelling communities, these issues would have been a top priority in the Commission's agenda.

Lastly, the illegal manner in which mines are being privatized throughout the state of Chhattisgarh, and the deployment of security forces to open up mining areas in Bastar are issues of grave concern. On the one hand the BSP claims that it is facing a shortage of iron ore and thus must open up mining in the Rowghat Hills urgently throwing protective procedures for the affected adivasis to the winds. On the other hand, in the Kacche Mines at Ari Dongri in Kanker, BSP has relinquished its mining lease to the private company Godavari Ispat Ltd on the false premise that the quality of the ore left in Kachhe is substandard and that the mine was unprofitable for BSP. Whereas the quality of the ore in this mine, being of high grade (> 65% Fe2+), is compatible with BSPs expansion requirements. Similarly, while in the Rowghat Iron Ore Mine in Kanker District, the BSP/SAIL is funding the construction of 21 paramilitary barracks for protection of the mine, and building a railway line connecting Dalli Rajhara to Dantewada along with other necessary infrastructure, but in the long term plans BSP/ SAIL plan to hand this mine over to private players (as per IBM's Regional Development Plan for Chhattisgarh).

At present 21 licenses for iron ore prospecting are sanctioned to 17 different mining companies in the Chhattisgarh state. 20 of the 21 PLs granted, or over 95%, were granted to private companies. These companies include Tata, Essar, Sarda Energy and Godawari
Power and Ispat, all of which have a history of illegal activities in the state. In total these companies have been granted prospecting rights over 16,130.24 hectares of land.

The need for the commission to continue its investigation with on site verifications as it has done in Orissa, Goa, Karnataka, and Jharkhand is urgent. Moreover the State of Chhattisgarh contains at least 10% of the country’s iron ore and of the highest quality, thus this is an issue of the proper utilization and preservation of an industrially pre-eminent and precious, non-replenishable resource which this nation holds in trust for the generations to come. Since October 16th, 2013 would be the date of expiry we wrote to the Ministry on October 2nd requesting that a response be provided within 5 days (by Monday, October 7th). Yet we have not received any response from the Ministry till date, and the Ministry has not provided an explanation for the early termination of the Commission. Thus, this delegation which represents affected communities and concerned citizens, have come to Delhi to address the Ministry directly. We hope that the appropriate authorities will meet with us and make the right decision to grant the necessary extension to the Commission.

Regards,

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