



सत्यमेव जयते

ONE MAN COMMISSION OF INQUIRY

Appointed under the provisions of the Commissions of Inquiry Act, 1952, vide notification dated 18.07.2020 (published in Assam Gazette on 20.07.2020) by the Government of Assam, to inquire into allegations of illegal coal mining activities, violation of different provisions of law in the process of coal mining activities in Saleki Proposed Reserve Forest and in Tikok Open Cast Project area, as well as in other Reserve Forests etc. under Digboi Forest Division, by different persons and organizations.

REPORT

(In Two Volumes)

BY

Justice Brojendra Prasad Katakey

Former Judge
Gauhati High Court

17/04/2021

Volume-I

Volume-I

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CHAPTER-I

INTRODUCTION

1. History of Coal Mining in Assam :

1.1 Coal Mining in Assam started in the middle of 19th century, during the colonial rule of the British, when it was felt necessary to meet the demand of coal consequent upon the expansion of tea cultivation and introduction of commercial navigation on the mighty river Brahmaputra in the early 1860. Coal, since then was considered to be the most important and abundant fossil fuel to meet the demand of energy for industrial purpose. Formal commencement of coal mining activities in Tirap started in January 1861, when coal was allowed to be mined by the British Rulers on certain conditions. It was H.B. Medlicott, Deputy Superintendent, Geological Survey of India, who suggested terms and conditions under which coal lands were to be leased out. The Lieutenant Governor having accepted the terms and conditions suggested by Medlicott, directed settlement of the coal fields of Upper Assam by issuing the advertisements and accordingly the terms and conditions for such settlement were advertised in Calcutta Gazette on 14.02.1866. Few grants of Tirap Coal Field then were bought by a member of Messrs Killop Stewart and Co., followed by the purchase of Namdang Coal Field by another person. British Rulers at that time also, with a view to safeguard against creation of




monopoly, limited the grants to 50 hectares and for a period of three years with a further condition that holding of more than one site is prohibited. Subsequently, on change of the policy relating to the grant of lease and the decision to deal with the application for leases on respective merits, Assam Railways and Trading Co (AR&TC) was granted a lease of 30 sq miles south of the Burhi Dihing of Makum and Jaypur Coal Field for a period of 20 years mainly because it would facilitate extension of the railways from Dibrugarh to Makum. A portion of Dikhow or Nazira Field was also held by AR&TC, the Assam Co., on lease, which fields were later abandoned as sufficient coal had not been found.¹

1.2 On promulgation of Coal Mines (Nationalization) Act, 1973 (in short 1973 Act), which came into force on 1st of May, 1973, the rights of the owners in respect of the Coal Mines in the Jeypore Coal Field; Makum Coal Field and Mikir Coal Field of Assam, were acquired and stood transferred to and vested absolutely in the Central Government free from all encumbrances. Thus the ownership of Bimalpore, Dilli and Jeypore of Jeypore Coal Field; Baragolai, Ledo, Namdang and Tipong of Makum Coal Field; Koilajan and Seelvata of Mikir Coal Field stood transferred and vested in the Central Government. Out of the said Coal Mines in the said Coal

1 The Comprehensive History of Assam. Vol. V, by H.K Barpujari

Fields, the AR&TC, Margherita, was the owner of Baragolai, Ledo, Namdang and Tipong Coal Mines in Makum Coal Fields. The Central Government, thereafter, in exercise of the powers conferred by Sub-Section (1) of Section 5 of the 1973 Act, directed that the right, title and interest of the owners of all the Coal Mines referred to Section 3 of the said Act, except certain specified Mines, shall vest in the Coal Mines Authority Limited, Calcutta, a Government Company incorporated under the Companies Act, 1956, with effect from 09th July, 1973. The said order passed on 09th July, 1973 was notified in the Gazette of India on 09th July, 1973 itself. The name of Coal Mines Authority Limited was subsequently changed to Coal India Limited on 21.10.1975 and thus the Coal India Limited became the lessee in respect of the Coal Mines of Makum Coal Field by virtue of sub-section (2) of Section 5 of the 1973 Act. The Coal India Limited in the response filed before the Commission of Inquiry supported by an affidavit, has accepted the position that after passing of the said order, in respect of which Gazette Notification was issued, a fresh Mining Lease was granted to Coal India Limited for a period of 30(thirty) years with effect from 01.05.1973 to 30.04.2003, in respect of Tirap and Namdang Coal Grants, which were earlier leased out in favour of the AR&TC by the British Rulers on 17.12.1897. The Tikok Open Cast Project (OCP) measuring an area of 98.59 Ha falls under 4 sq miles mining lease and Namdung Coal Grant. The said OCP is



situated in Saleki Proposed Reserve Forest (PRF), under Digboi Forest Division in the present Tinsukia District.

Gazette Notification of the Order dated 09.07.1973, issued by the Ministry of Steels and Mines, (Department of Mines), Govt. of India and published in the Gazette of India, Extraordinary, on 09.07.1973, is made part of this Report as **Annexure-1 in Volume-II**


2. Appointment of Commission of Inquiry and Terms of Reference:

2.1 Various reports alleging illegal coal mining activities in Saleki PRF under Digboi Forest Division, including Tikok OCP area, by organizations, such as Coal India Limited and its subsidiaries and by some unscrupulous individuals and its adverse environmental impact on the flora and fauna in the said area, were published in various electronic and print media in recent times. The allegations of violation of the Forest (Conservation) Act, 1980, the Assam Forest Regulation, 1891 and the Wildlife (Protection) Act, 1972, in the process of coal mining activities carried out by the Coal India Limited or its subsidiaries in the aforesaid area have also been made. The Governor of Assam, having regard to the said allegations and also the powers vested in the State Government under different enactments, such as, the Mines and Minerals (Development and Regulation) Act, 1957 and the Rules framed thereunder as well as Assam Forest Regulation 1891, the Environment(Protection) Act, 1986, the Air(Prevention, Control and Pollution) Act, 1981, and other related laws and having felt expedient and necessary in public

interest and also in the interest of protection of environment, forest and wildlife in and around Saleki PRF and Tikok OCP area, constituted this Commission vide Notification No. FRS.1712018/272 dated 18.07.2020, in exercise of the powers conferred under Section 3 of the Commissions of Inquiry Act, 1952, to enquire into any violation of the laws related to the forest, wildlife, mining and environment, during the last 20(twenty) years, while carrying out any mining or any other activities by any corporation, organization or individual in the aforementioned forest areas. The tenure of the Commission was fixed at 6 (six) months from the date of issuance of the notification, which was notified in Assam Gazette on 20.07.2020. The following Terns of Reference have been notified vide the aforesaid notification :-

1. *To enquire as to whether since the year 2003 till date, any illegal activities have been undertaken by any organization or individual in and around Saleki Proposed Reserved Forest (PRF) under Digboi Forest Division, including the Tikok Open Cast Project of Coal India Limited (North Eastern Coalfields).*
2. *To enquire and identify organization(s) responsible for undertaking such illegal mining activities, if any, in and around the aforesaid forest area. 2003 onwards, and also to enquire as to whether grant of any mining lease*
3. *To enquire into the manner of processing of any application, if made, by any organization or*

individual for grant of mining lease in the aforesaid forest area during the period from during the said period was in compliance and in conformity with the provisions of applicable laws i.e. the Mines and Minerals (Development & Regulation) Act, 1957, the Assam Forest Regulation, 1891, the Forest (Conservation) Act, 1980, the Environment (Protection) Act 1986, the Wildlife (Protection) Act, 1972 and other applicable Laws and Rules.

- 4. To enquire and assess, the extent of illegal mining activities, if any, in and around the aforesaid forest areas and also the impact of such activities, if any, on the flora and fauna generally found in and around the aforesaid forest area.*
 - 5. To enquire into and fix responsibility upon government officials of any department found involved in commission of any illegal mining or any other illegal activity in commission or abetment of the aforesaid forest area.*
 - 6. To enquire into and suggest measures for recovery of loss, if any, caused due to unlawful coal mining activity under the jurisdiction of Digboi Forest Division, either in the form of rent, royalty, penalty, land arrears or tax in terms of Section 21(5) of the Mines and Minerals (Development & Regulation) Act, 1957 or under any other law in force during commission of offence of illegal mining or commission of any other illegal activity.*
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7. *To enquire into and suggest measures to be taken for restoration, rehabilitation and reclamation of areas damaged due to illegal coal mining and ancillary activities, if any and approximate amount of costs to be incurred for such purpose.*
8. *To enquire into any other prohibited regulated activities inside all forests (RF/PRF) and wildlife sanctuary under Digboi Forest Division and to suggest remedial measures to be taken to check such activities.*

The Commission has also been vested with additional powers as specified in Sections 5(2) to 5(5) and 5(A) of the Commissions of Inquiry Act, 1952 (in short 1952 Act).

Copy of the notification published in the Assam Gazette on 20/07/2020 appointing the Commission of Inquiry is made part of this Report as **Annexure-2 in Volume- II.**

3. Tenure of the Commission :


3.1 The Commission by the said notification was required to submit the report on the aforesaid Terms of Reference, within a period of 6(six) months from the date of issuance of the notification. Sub-section (1) of Section 3 of the 1952 Act having mandatorily required issuance of notification appointing a Commission in the official Gazette, the period of 6(six) months, therefore, has commenced with effect from 20.07.2020, on which date the notification dated 18.07.2020 was published in the Assam Gazette. The

Commission, however, could not submit its Report within the stipulated period of 6(six) months, mainly because of non-submission or incomplete submission or delay in submission of information/documents by few departments of Govt. of Assam; Directorate and Govt. agencies. A detailed order giving the reasons for the inability of the Commission to submit the report has been recorded in the Order dated 06.01.2021 passed by the Commission.

3.2 The Chief Secretary to the Govt. of Assam, after almost one month from the date of expiry of the tenure of the Commission, as aforesaid, held a meeting on 12.02.2021 to review the status of submission/non-submission of information/data by various departments/agencies, as sought for by the Commission. The said meeting was presided over by the Chief Secretary, Assam and was attended by S/Sri Deepak Kumar Kedia, IPS, IGP(L&O); Krishna Das, APS, AIG(R); Abinash Joshi, Principal Secretary, Environment and Forest Department; Amit Sahay, PCCF (Wildlife); M.K. Yadava, Addl. PCCF (Wildlife) and Chief Wildlife Warden; Utpal Bora, CCF(HQ); Ruhini B. Saikia, DCF (RE&WP); Aniruddha Dey, DCF (M&E); Ms N. Dutta, Secretary, Mines and Minerals department; Ikramul Hussain, Director, Geology and Mining; Udayaditya Gogoi, Deputy Secretary, Mines and Minerals Department and K.S.P.V. Pavan Kumar, Addl. PCCF-cum-Member Secretary, Assam Biodiversity Board. The Secretary of the Commission Sri Rajib Baruah, DCF had also

attended the said meeting. The minutes of the meeting was sent to this Commission, wherefrom it appears that the Chief Secretary to the Govt of Assam, directed all concerned departments/agencies to submit the required information/data, which are yet to be submitted, within one week time, so as to enable the Commission to complete the inquiry and submit the report to the Govt of Assam at least within one month (emphasis added). It also appears from the said minutes that the Chief Secretary, Assam directed the PCCF (Wildlife) to ensure conduct of the required study through NESAC, as directed by the Commission, as expeditiously as possible, so that the Commission gets the desired mapping towards submission of its report within one month time (emphasis added).

3.3 For all intent and purposes as well as from tenor of the aforesaid proceeding, it is, therefore, evident that the Govt of Assam wanted furnishing of required information/data and conduct of satellite mapping through NESAC, as directed by the Commission, within a week time so that the report could be submitted by the Commission within one month from the date of the meeting, i.e., 12.02.2021. The Commission in the later part of this Report shall deal with the submission or otherwise of the required information/data and also non- conduct of the satellite mapping through NESAC.



3.4 The Govt. of Assam issued another Notification on 20.02.2021 extending the tenure of the Commission for further 3(three) months. The said notification was issued under the signature of the Addl. Secretary to the Govt. of Assam, Environment and Forest Department, who, on being enquired, has informed the Commission by whatsapp message sent on 21.02.2021 that the said extension has been granted w.e.f 17.01.2021, which in fact ought to have been w.e.f 20.01.2021, the six months tenure having expired on 19.01.2021.

Copy of the Notification dated 20.02.2021, issued by the Addl. Secretary to the Govt. of Assam, Environment and Forest Department, is made part of this Report as **Annexure-3, in Volume-II**

4. Few important dates:

4.1 18.07.2020 :Notification, in the name of the Governor of Assam, was issued by the Chief Secretary to the Govt. of Assam constituting the Commission of Inquiry, in exercise of the power conferred under Section 3 of the Commissions of Inquiry Act, 1952, to cause an inquiry into the allegations of illegal coal mining.

20.07.2020 :The Notification constituting the Commission of Inquiry was published in the Assam Gazette, Extraordinary.

21.07.2020 : The One Man Commission of Inquiry has taken cognizance of the said Notification and assumed charge of inquiry.

10.08.2020: The Commission has been intimated about appointment of Sri Hiranya Pathak, AFS, Deputy Conservator of Forest, Assam as Secretary, made vide Office Order dated 06.08.2020.

10.08.2020 : The Commission passed order directing issuance of public notices, in widely circulated daily newspapers in Assamese and English languages, having wide circulation in the State of Assam in general and in the district of Tinsukia in particular, inviting written statements of facts, relating to the Terms of Reference from the Govt. of Assam; Commissioner & Secretary to the Govt. of Assam, Environment and Forest Department; Director General of Police, Assam; Tinsukia District Administration; Tinsukia District Police; Assam Pollution Control Board and any other aggrieved persons, parties, organizations and members of the public acquainted with the subject matter of the inquiry, by 05.09.2020. Such public notices were also directed to be issued to the aforementioned Govt. departments and agencies, with a further direction to produce all relevant records, relating to the Terms of Reference, on or before 05/09/2020

✓ Notices accordingly were issued to Govt. of Assam, represented by the Chief Secretary, Commissioner & Secretary to the Govt. of Assam, Environment and Forest Department; Director General of Police, Assam; Tinsukia

District Administration; Tinsukia District Police; Assam Pollution Control Board, in terms of the order dated 10/08/2020.

11.08.2020: Public notices in the Assamese dailies, namely Dainik Janambhumi and Niyomiya Barta and in English daily, namely The Assam Tribune were published.

17.08.2020: The Commission directed issuance of request letters to the parties in PIL (Suo-moto) No. 3/2020, PIL No. 29/2020 and PIL No. 30/2020, pending before the Hon'ble Gauhati High Court and accordingly request letters were issued.

3rd Week of September, 2020: The Commission was provided the office accommodation in State Zoo and Botanical Garden, Guwahati.

28.08.2020 to 25.09.2020: Sri Surjya Kanta Dutta; Sri Maharlal Baniya; Sri Badri Chetry and others; Alifa Zibrani and others; Sri Debi Goenka; Tezpur University Student's Council; Sri Aniruddha Jog; Sri Arghadeep Barua; Sri Devajit Moran; Sri Trinayan Gogoi; Purbuttar Khadan Mazdoor Sangha, Rashtriya Coal Mazdoor Union; Assam Colliery Mazdoor Congress; Assam Janata Mazdoor Union; Sri Mrinal Jyoti Bordoloi; Sri Joy Barua; Smti Kalpana Patowary; Sri Dwizen Barua; Milan Jyoti Sangha, Lakhimpur; Xondhan Cotton

University; Silpi Sikha; Sri Nirbarna Hazarika; Sri Mrinmoy Khataniar; Sri Amarjyoti Deka; Sri Vikram Rajkhowa; Sri Santanu Borthakur; Coal India, NE Coal field and Sri Basanta Deka.

29/09/2020 : The Commission directed issued notices to certain authorities, both Central and the State, requesting their participation in the inquiry and to give their inputs on the matter and as per the notified Terms of Reference.

05/10/2020: Reminder was issued to the Principal Secretary, Environment and Forest Department, Govt. of Assam for filing the statement of facts along with documents.

Detailed questionnaires were also issued to the Principal Secretary, Environment and Forest, Govt. of Assam giving them fifteen days time to answer, as well as the direction to conduct satellite mapping in and around Saleki PRF(10 km from its boundary).

07/10/2020 : Reminder was issued to the Chief Secretary to the Govt. of Assam, the DGP, Assam and the Chairman, Assam Pollution Control Board for filing the statements of facts along with relevant documents and also to answer the questionnaires within fifteen days.

✓ **08/10/2020** : The Commission requested Dr. Kashmira Kakati, who earlier sent an email to the Commission, to

participate in the inquiry and to submit her written statement as well as to furnish the details of the proceeding filed by her before the Hon'ble National Green Tribunal and also before the Hon'ble Supreme Court.

14/10/2020: The Deputy Commissioner, Tinsukia was asked to furnish further information.

Copies of few documents sent by Dr. Kashmira Kakati are taken on record.

22/10/2020 : Written response was submitted by the DFO, Digboi Forest Division.

03/11/2020 : The Commission directed issuance of reminders to the following authorities to submit their respective written responses within fifteen days

- (i) Union of India, Represented by the Secretary, Ministry of Mines.
- (ii) Commissioner & Secretary, Home & Political department, Govt. of Assam.
- (iii) Director, Geology & Mining Department, Govt. of Assam.
- (iv) DC Tinsukia.
- (v) Secretary, Ministry of Environment, Forest & Climate Change, Govt. of India.
- (vi) PCCF (Wildlife), Govt. of Assam.
- (vii) National Board of Wildlife, Represented by The Chairperson.
- (viii) Assam State Board for Wildlife, Represented by Member Secretary.

- (ix) National Bio-Diversity Authority, Represented by Chairperson.
- (x) Assam State Bio-Diversity Board, represented by Member Secretary.
- (xi) Forest Advisory Committee, Represented by Chairperson, Govt. of India.
- (xii) Principal Secretary, Govt. of Assam, Mines & Minerals Department.
- (xiii) S.P., Tinsukia.
- (xiv) Principal Secretary, Environment & Forest Department, Govt. of Assam.
- (xv) DGP, Assam.
- (xvi) Chairman, Pollution Control Board, Assam.
- (xvii) Govt. of Assam, Represented by Chief Secretary.

06/11/2020: The Commission received the responses from the Directorate of Geology and Mining, Govt. of Assam and from the Secretary, National Bio-Diversity Authority.

The Commission also issued notice to Additional PCCF(Wildlife) and Chief Wild Life Warden, Environment and Forest Department, Govt. of Assam to file the written statement and to produce all relevant records within thirty days.

10/11/2020: The Commission received the written response from the Member Secretary, Assam State Bio-Diversity Board along with the enclosures thereto.

✓ **12/11/2020**: The Commission also received the written response of the Deputy Secretary to the Govt. of Assam,

Mines & Mineral Departments dated 10/11/2020, along with the enclosures thereto.

13/11/2020 :Written response on behalf of DGP, Assam, was submitted.

17/11/2020 : Further information were sought for from the DGP, Assam and DFO, Digboi Forest Division.

25/11/2020 : Written response dated 23/11/2020 of the Secretary, National Bio-Diversity Authority, has been received.

09/12/2020 : The Commission has taken on record the following :

- (a) Pointwise reply of the Ministry of Coal (CA Section), Govt. of India, sent by the Under Secretary vide Communication dated 17.11.2020 received on 01.12.2020.
- (b) Written Response of the Ministry of Environment, Forest and Climate Change (Forest Conservation Division), Govt. of India dated 17.11.2020 submitted by Assistant Inspector General of Forest received on 03.12.2020.
- (c) Further information submitted by the SP, Tinsukia dated 04.12.2020, received on 07.12.2020, in

response to the Commission's further Notice dated 11.11.2020.

- (d) Written Response of the Chairman SEIAA Assam dated 04.12.2020, received on 07.12.2020.
- (e) Written Response supported by an affidavit from the Member secretary (I/C) PCBA dated 07.12.2020, relating to the queries put to the PCCF & HoFF Assam.
- (f) Written Response supported by an affidavit of the Member Secretary (I/C) PCBA dated 07.12.2020, received on 08.12.2020, in response to the Commission's Notice.

15/12/2020 : Pursuant to the communication issued by the Deputy Secretary to the Govt. of Assam, Mines and Minerals Department, one month time was granted to the Principal Secretary to the Govt. of Assam, Mines and Minerals Department for submission of document / information pursuant to notice dated 05/10/2020 issued by the Commission.

25.12.2020 : The Commission conducted field visit of Saleki PRF; Tikok OCP; Tirap OCP and other adjoining areas.

The Commission during the field visit directed the Executive Engineer, PCBA, Dibrugarh Region, who was present, to ensure conduct of few tests and to submit the report, apart from directing him to furnish a list of Coke Coal Industries within his jurisdiction, date of obtaining the

Consent to Establish and Consent to Operate. That apart, he was directed to submit all the reports of inspection of such industries.

26.12.2020: Public hearing was conducted in the Conference Hall of Margherita Development Block, during which the statements of eleven persons were recorded. Two persons and an Association have filed their respective written responses, during the public hearing.

27/12/2020 : The Commission conducted the public hearing, during which statements of seven persons were recorded. Few residents of Ledo and Sri S.P. Dutta, GM, NEC, CIL submitted written representation which are taken on record.

02/01/2021 : Written response along with the enclosures, supported by an affidavit, of the Environment and Forest Department, Govt. of Assam has been submitted, in response to the notices issued by the Commission.

The Commission once again reminded the Environment and Forest Department, Govt. of Assam to conduct the satellite mapping by using High Resolution Satellite Imagery.

06/01/2021 : The Commission passed order disclosing the reasons of its inability to submit the report within the period

of six months, which was communicated to the Chief Secretary to the Govt. of Assam for doing the needful.

06/02/2021 : The Commission directed the Chairman, PCBA to conduct the test of stagnated water of Tikok OCP and Tirap OCP as well as of Ledo Katcha Nala and Samukjan Nala, which were not done till then and to submit the report within thirty days.

PCCF & HoFF, Assam and Additional PCCF, Chief Wildlife Warden, Assam were directed to conduct aquatic study of Buridihing River to analyze the affect, if any, on the aquatic life because of coal mining activities.

The PCCF Assam and HoFF was also directed to arrange collection of samples and conduct of Soil test of the paddy fields of Ledo Gaon, Chipe Gaon, Samukjan Gaon, Radgaon, Ledo Coalpara Gaon and Mulang Khamti Gaon and to submit the report within one month.

The medical papers sent by Sri Diganta Chetia, whose statement was recorded during the public hearing in Margherita on 26/12/2020, are taken on record.

12.02.2021 : A meeting under the Chairmanship of the Chief Secretary, Assam was held to review the status of submission/non-submission of information/data by various departments/agencies, as sought for by the Commission, during which the Chief Secretary, Assam directed all concerned to submit the required information/data within one

week so as to enable the Commission to complete the inquiry and submit the report at least within one month. The PCCF (Wildlife) Assam was also directed to ensure that the study through NESAC is done as expeditiously as possible so that the Commission gets the desired Mapping towards submission of its report within one month time.

20.02.2021 : Notification was issued extending the tenure of the Commission for a further period of 3(three) months.

22.02.2021 : The aforesaid Notification dated 20.02.2021 has been received by the Commission.

24.02.2021 : The Commission in its Conference Room held a meeting with the Principal Secretary, Environment and Forest Department, Govt. of Assam and other officials relating to non- submission of the required reports/information/data.

04/03/2021:Preliminary report on Satellite Imagery Based Study of Coal Mining in and around Sakeli PRF, signed by three senior officers of Environment and Forest Department as well as the research papers / reports, are taken on record.


The Commission also directed the Chairman, PCBA to arrange collection of samples and conduct of Soil test of the paddy fields of Ledo Gaon, Chipe Gaon, Samukjan Gaon, Radgaon, Ledo Coalpara Gaon and Mulang Khamti Gaon and to submit the report within ten days.

06.03.2021 to 09.03.2021: The Commission conducted the field visit of Tipong Reserve Forest and Colliery; Ledo Colliery; Borgolai Colliery; Dihing Patkai Proposed National Park, Dihing Patkai Elephant Reserve; Chipegaon Pathar; Bomgora area; Joyrampore area of Tinkopani Reserve Forest; Namphai Reserve Forest; Golai Elephant Corridor; Bogapani Elephant Corridor and other nearby areas.

08/03/2021 & 09/03/2021 : Public hearing was held in the Conference Room of Development Block, Margherita. Sri Moharlal Bania and Sri S.K. Dutta were allowed to submit the evidence on affidavit of their witnesses within a week. On 09/03/2021 the statement of Sri Devajit Moran was recorded.

16/03/2021 : Public hearing was conducted in the conference room of the Commission's office in Assam State Zoo and Botanical Garden, Guwahati, during which the statements of Sri Hiren Pegu, Regional Executive Engineer, PCBA, Dibrugarh and Sri S.P. Dutta, General Manager, NEC, CIL have been recorded.

The analysis reports of Water and Soil Samples submitted by the Chairman, PCBA, vide communication dated 15/03/2021 are taken on record.

 **17/03/2021** : During the public hearing statements of Sri Indeswar Kalita, ACS, Addl. Secretary, Environment and

Forest Department, Govt. of Assam; Sri T.C. Ranjith Ram, IFS, DFO, Digboi Forest Division; Sri Bankim Sarma, IFS, Conservator of Forest (Wildlife), Office of the PCCF(Wildlife), Assam and Sri Aniruddha Dey, AFS, Deputy Conservator of Forest (Monitoring and Evaluation), office of the PCCF and HoFF, have been recorded.

19/03/2021 : The statement of Smti. Nandita Dutta, ACS, Secretary to the Govt. of Assam, Environment and Forest Department has been recorded.

Communication submitted by Sri Bankim Sarma, IFS, Conservator Forest(Wildlife) intimating about non availability of baseline data of Wildlife in and around Saleki PRF is taken on record.

The evidence on affidavits of Sri Surjya Kanta Dutta, Sri Moharlal Bania, Sri Nasim Khan, Sri Nandeswar Gogoi, Sri Jawkham Khampti, Sri Rituraj Bordoloi, Sri Jhula Upadhaya, Sri Ganesh Debnath and Sri Mainul Hoque are taken on record.

20/03/2021: Communication dated 20/03/2021 of Smti. Nandita Dutta, ACS, Secretary to the Govt. of Assam, Mines and Minerals Department intimating the Commission that the department does not have any record relating to taking any action against NEC CIL under Mines and Minerals (Development and Regulation) Act for carrying on the coal

mining activities between the years 2003 to 2019, is taken on record.

22/03/2021 : The statement of Sri I. Hussain, Director, Geology and Mining, Govt. of Assam was recorded.

The Communication dated 22.03.2021 issued by the Addl. Secretary to the Govt. of Assam, Environment and Forest Department, along with the enclosures is taken on record.

25/03/2021: Communication dated 23.03.2021 of the General Manager, NEC, CIL enclosing the Coal Production Data of NEC, Colliery wise have been received

31/03/2021: Mail dated 31.03.2021 enclosing therewith the details of taxes and levies of NEC, CIL from 2003-04 to 2019-20 has been received.

12/04/2021: The Addl. PCCF (WL) and Chief Wildlife Warden, Assam submitted the written response.

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CHAPTER- II

COMMENCEMENT OF INQUIRY:


1. Gist of Proceedings :

1.1 The Commission, upon taking cognizance of the Notification dated 18.07.2020, published in Assam Gazette on 20.07.2020, assumed charge on 21.07.2020 forenoon. The Commission, in the proceeding dated 10.08.2020 directed issuance of public notice inviting written statements of facts relating to the Terms of Reference from the Govt. of Assam; Commissioner & Secretary to the Govt. of Assam, Environment and Forest Department; Director General of Police, Assam; Tinsukia District Administration; Tinsukia District Police Administration; Pollution Control Board, Assam and interested and/or aggrieved persons; parties; organizations and members of public acquainted with the subject matter of the inquiry by 05.09.2020. Pursuant to the said proceeding notices were issued. Public notice were also published in the daily newspapers, namely, The Assam Tribune (English daily) and Niyomia Barta (Assamese daily) published from Assam in their publications dated 11.08.2020. Directions were also issued to the Govt. of Assam; DGP, Assam; Pollution Control Board, Assam and Tinsukia District and Police Administrations to produce all relevant records relating to the Terms of Reference by 05.09.2020.

Copies of the notices issued in the aforesaid newspapers on 11.08.2020, both in English and Assamese languages, are made part of this Report as **Annexed-4** collectively in **Volume-II**.

1.2 The Commission, having been apprised about pendency of PIL (Suo-moto) No. 3/2020, PIL No. 29/2020 and PIL No. 30/2020 before the Hon'ble Gauhati High Court, relating to the alleged illegal coal mining activities, vide Order passed on 17.08.2020, decided to request the parties to the said proceedings to provide the Commission valuable inputs in relation to the Terms of Reference and to submit their written responses along with the documents, if so desire. Accordingly, the parties to the said writ proceedings have been informed. The Commission also appointed the learned counsel Sri Gautam Rahul and Sri Dusmanta Madhab Nath to assist it in conducting the inquiry.

1.3 Pursuant to the public notice /request made by the Commission, written responses were received from 29 persons/organizations, some of whom are also the parties to the aforesaid PILs pending before the Hon'ble Gauhati High Court. No written statement having been submitted, the Commission in its proceeding dated 29.09.2020 decided to ask the following authorities, who are also parties to the aforesaid PILs, to give their inputs in the matter :-

- 
- (i) Union of India, represented by the Secretary, Ministry of Mines, Shastri Bhawan, Room No. 320, A-Wing, Dr. Rajendra Prasad Road, New Delhi-110001;

- (ii) The Commissioner & Secretary, Home & Political Department, Govt. of Assam, Assam Sachivalaya, Dispur, Guwahati-781006;
- (iii) The Principal Chief Conservator & Head of Forest Force, Govt. of Assam, Aranya Bhawan, Panjabari, Guwahati-781037;
- (iv) The Director, Geology & Mining Department, Govt. of Assam, Kahilipara, Guwahati-781019;
- (v) The Deputy Commissioner, District Tinsukia, Assam, PIN-786125;
- (vi) The Union of India, represented by the Secretary, Ministry of Environment, Forest & Climate Change, Govt. of India, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi-110003;
- (vii) The Principal Chief Conservator of Forest (Wildlife), Govt. of Assam, Aranya Bhawan, Panjabari, Guwahati-781037;
- (viii) The National Board for Wildlife, represented by the Chairperson, Ministry of Environment, Forest & Climate Change (Wildlife Division), Govt. of India, 6th Floor, Vayu Bhawan, Jorbagh Road, New Delhi-110003;
- (ix) The Assam State Board for Wildlife, represented by its Member Secretary, the Chief Wildlife Warden, Aranya Bhawan, Panjabari, Guwahati-781037;
- (x) The National Bio-Diversity Authority, represented by its Chairperson, 5th Floor, Akash Block, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi-110003;
- (xi) The Assam State Bio-Diversity Board, represented by its Member Secretary, 2nd Floor, Aranya Bhawan, Panjabari, Guwahati-781037;

- (xii) The Forest Advisory Committee, represented by the Chairperson, Ministry of Environment, Forest & Climate Change, Govt. of India, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi-110003;
- (xiii) The Divisional Forest Officer, Digboi Division, Digboi, District Tinsukia, Assam, PIN-786153;
- (xiv) The Principal Secretary, Govt. of Assam, Mines & Minerals Department, Assam Sachivalaya, Dispur, Guwahati-781006;
- (xv) The Superintendent of Police, District Tinsukia, Assam.

The Secretary to the Commission accordingly informed those authorities.

1.4 The Commission again vide its proceeding dated 05.10.2020 directed issuance of notice to the Principal Secretary, Environment and Forest Department, Govt. of Assam for filing the statement of facts along with documents and also to answer the queries, as no response was received till then despite issuance of public notice. The Commission in the said proceeding had also decided to conduct a study either through NESAC Umium, Meghalaya or NRSA Hyderabad or SAC Hyderabad to assess and map the areas under mining in and around the Saleki PRF (10 km from its boundary) in the years 2003, 2010, 2015, 2018 and 2020, by using High Resolution Satellite Imageries for the purpose of assessment of extent of illegal mining and also the damages caused to the land-mass, including the forest cover due to

illegal coal mining. The Commission, therefore, directed the Principal Secretary, Environment and Forest Department, Govt. of Assam to ensure conduct of such study and submit the report within 3(three) months. Accordingly, the Principal Secretary, Environment and Forest Department, Govt. of Assam was informed on 05/10/2020 itself. The Commission also issued questionnaires to the Principal Secretary to the Govt. of Assam, Environment and Forest Department.

1.5 Sri Debabrata Saikia, the then Leader of Opposition in Assam Legislative Assembly, having sent a communication to the Commission, he was also requested to give his valuable inputs, in relation to the Terms of Reference, if so desire. The Commission, having received a Mail from Dr. Kashmira Kakati, she was also requested to participate in the inquiry. In the meantime, as requested, the Assam Bio-Diversity Board was supplied with a copy of the writ petition filed in PIL No. 30/2020.

1.6 The Commission, in its proceeding dated 03.11.2020 having noticed that none of the Govt. Departments/authorities, despite the direction issued on 29.09.2020, responded to the notices issued, decided to issue urgent reminders to those authorities and also to the Govt. of Assam, represented by the Chief Secretary to submit their urgent responses within 15 (fifteen) days. The Commission also decided to issue notice to the Addl. PCCF (Wildlife) and


Chief Wildlife Warden, Environment and Forest Department, Govt. of Assam to submit written statements and to produce all relevant records, the same having not been done.

1.7 The Commission, having regard to the response of the Asstt. Inspector General of Police (R), Assam, sent vide Memo dated 13.11.2020, and the written statement of the DFO, Digboi dated 22.10.2020, vide its proceeding dated 17.11.2020 directed issuance of further notice to the DGP, Assam and to the DFO, Digboi to furnish the further information, within fifteen days.

The DFO, Digboi was also asked to provide the Commission his planning to conduct the aerial survey of all damaged forest areas by using drone and the time line set by him for its compliance.

The DGP, Assam and the DFO, Digboi, were accordingly informed.

1.8 The Principal Secretary to the Govt. of Assam, Mines and Minerals Department and the Director, Geology and Mining, Govt. of Assam were asked to answer certain queries, apart from directing conduct of the satellite mapping of the concerned forest areas, vide notice dated 03.12.2020.

 **1.9** The Deputy Secretary to the Govt. of Assam, Mines and Minerals Department, on behalf of the Principal Secretary of the said Department, vide his communication

dated 08.12.2020 requested the Commission to grant further time to submit the required documents/information pursuant to the notice dated 05.10.2020 issued by the Commission. The said communication was received on 15.12.2020. The Commission having considered the said request, vide its proceeding dated 15.12.2020 granted the Principal Secretary to the Govt. of Assam, Mines and Minerals Department a further one month time to submit the documents/information, as requested for.

1.10 The Commission in its proceeding dated 09.12.2020 has recorded the receipt of the written responses from certain authorities.

1.11 Before conducting the field visit and the public hearing, as aforesaid, public notices were issued in English and Assamese daily newspapers, published from Assam, namely, The Assam Tribune (English daily), The Dainik Janambhumi, Niyomia Barta and Asomiya Khobar (Assamese dailies), in their publications dated 15.12.2020. The Deputy Commissioner, Tinsukia has also made wide publicity about the said site visit and public hearing.

Copies of the notices published in the aforesaid newspapers on 15.12.2020, are made part of this Report as **Annexure-5**, collectively in **Volume-II**.

1.12 The field visit of Saleki PRF, Tikok OCP, Tirap OCP and the nearby areas was conducted by the Commission on 25.12.2020, during which the General Manager, NEC, CIL;

DFO, Digboi Forest Division; Sri Moharlal Bania; representatives of Sri Debi Goenka and Sri S. K. Dutta, who have submitted their memorandums; the Regional Executive Engineer, Regional Office, PCBA, Dibrugarh were present. None from the Department of Mines and Minerals, Govt. of Assam, however, participated in the said field visit. The Commission also conducted public hearing in the Conference Hall of Margherita Development Block, Margherita on 26.12.2020 and 27.12.2020, during which the statements of 18 persons have been recorded. Five persons/organization have submitted their written representations.

1.13 The Commission during the site visit conducted on 25.12.2020 had directed the Regional Executive Engineer, PCBA of Dibrugarh Region to conduct the following tests :-

- (i) Stagnated water of Tikok OCP and Tirap OCP, samples of which to be collected with the assistance of Coal India Limited.
- (ii) Water in Ledo Katcha Nala and Samukjan Nala.
- (iii) Aquatic Study of Buri dihing River to find out the affect, if any, on the aquatic life because of the coal mining activities.

The Regional Executive Engineer, PCBA was also directed to furnish a list of Coke Coal Industries within his jurisdiction, with the date of obtaining the Consent to

Establish and Consent to Operate. All the reports of inspection of such industries were also directed to be submitted.

1.14 The Environment and Forest Department, Govt. of Assam submitted the written response supported by an Affidavit sworn by the Addl. Secretary on 02.01.2021, which is taken on record, vide the even dated order i.e. dated 02.01.2021.

The Commission in its proceeding dated 02.01.2021 has also recorded that the Environment and Forest Department of Govt. of Assam in the aforesaid written response did not, however, say anything relating to the direction issued by the Commission for Satellite Mapping of the relevant areas by using High Resolution Satellite Imagery, which was directed to be conducted vide order dated 05.10.2020.

1.15 The aforesaid written response was filed by the Environment and Forest Department, Govt. of Assam after almost three months of issuance of the notice, pursuant to the order dated 05.10.2020 and about fifteen days before the date fixed for submission of the report by the Commission, which was 19.01.2021. A detailed order was, thereafter, passed by the Commission on 06.01.2021 intimating the Govt. of Assam the reasons for not submitting the Report within the time fixed by it vide the aforesaid Notification

dated 18.07.2020 and gazetted on 20.07.2020. In the said order the Commission has indicated the delay in submission of the written responses by the authorities, non-submission of the required information by certain authorities and also non-conduct of satellite mapping, as aforesaid, of the areas under mining despite the direction issued by the Commission. The Govt. of Assam, therefore, was requested to take a decision in that regard.

Copy of the said order passed by the Commission on 06.01.2021 is made part of this Report as **Annexure 6** in **Volume-II**.

1.16 The Member Secretary (I/C), PCBA, however, vide communication dated 05.01.2021 has expressed its inability to carry out the aquatic study of Buridihing River and suggested that the same may be conducted through Assam Science Technology and Environment Council (ASTEC), Guwahati. The Commission, therefore, requested the PCCF & HoFF, Assam to conduct the said study, which though was initially declined, the PCCF & HoFF during the meeting held on 24.02.2021 has agreed to conduct such study and submit the report. The said report, however, has not been submitted.

1.17 The PCCF & HoFF, Assam has also been directed to arrange collection of samples and conduct of soil tests of the paddy fields of Ledo Gaon, Chipe Gaon, Samukjan Gaon, Radgaon, Ledo Coal Para Gaon and Mulang Khamti Gaon to ascertain the allegations of extensive damage caused to the

said paddy fields due to the coal mining activities of Coal India Limited. The reports of soil test have been submitted by the DFO, Digboi Forest Division.

1.18 The Chief Secretary to the Govt. of Assam discussed the various issues raised by the Commission in its proceeding dated 06.01.2021, with the concerned departments/agencies in the meeting held on 12.02.2021, after about three weeks of the expiry of the aforementioned six months' time. The minutes of the proceeding held on 12.02.2021 was sent to this Commission, wherefrom it appears that the Chief Secretary issued directions to all concerned departments/agencies to submit the required information/data, which are yet to be submitted, within one week so that the Commission could complete the inquiry within a month. The Chief Secretary also directed the PCCF(WL), Assam to ensure conduct of the study through NESAC so that the Commission gets the desired mapping and could submit the report within one month time. Unfortunately, within the said period of time, the required information/data by the departments/agencies, as aforesaid, have not been submitted except by the Inspector General of Police (L&O), Assam, who has submitted the same vide communication dated 19.02.2021. The minutes of the said meeting held on 12.02.2021 was sent to the Commission, scanned copy of which is reproduced below :-

MINUTES OF THE MEETING HELD ON 12.02.2021 AT 3.30 P.M. CHAIRED BY CHIEF SECRETARY, ASSAM TO REVIEW THE STATUS OF SUBMISSION / NON SUBMISSION OF INFORMATION/DATA BY VARIOUS DEPARTMENTS/AGENCIES AS SOUGHT BY THE JUSTICE B.P. KATAKEY, COMMISSION OF INQUIRY ON ILLEGAL COAL MINING ACTIVITIES IN SALEKI PRF & TIKOK OCP AS INSTITUTED BY GOVT. OF ASSAM,

The officials from various Department/Agencies of the State Government/Govt. of India present in the meeting is shown at annexure 'A'

Shri Jishnu Barua, IAS, Chief Secretary, Assam chaired the meeting.

Initiating the discussion, Sri Avinash Joshi, IAS, Principal Secretary, Environment and Forest Department mentioned about the order dated 06.01.2021 of Justice B.P. Katakey and communicated to Chief Secretary, Assam which states that due to partial submission/non submission of information/data by few Departments/Agencies as sought by the Justice B.P. Katakey Commission of Inquiry, the Commission is unable to submit the Inquiry Report within the stipulated time i.e. 17th January, 2021.

On being enquired by Chief Secretary, during the review, Shri Rajib Barua, Secretary to the Justice B.P. Katakey Commission of Inquiry informed that on 5/02/2021 and 12/02/2021 Divisional Forest Officer, Digboi has submitted the required information/data to the Commission and Mines and Minerals Department also submitted on 28.02.2021.

Representating Director General of Police, Assam, Shri Dipak Kedia, IPS, IG, L & O informed that the required information/data will be submitted within 7 days to the Commission of Inquiry.

Principal Secretary, Environment and Forest Department directed Shri K.S.P.V Pawan Kumar, IFS, Addl. Principal Chief Conservator of Forests (B & C) and Shri Rohini B. Saikia, IFS, DCF, RE & WP and OSD, Environment and Forest Department to co-ordinate the matter of conducting the study through NESAC, Umiam, Meghalaya as desired by the Commission to assess and map the areas under mining in and around (10 kms from its boundary) the Saleki PRF in the years 2003,2010,2015,2018 and 2020 by using high resolution satellite imageries and arrange to submit the report by 22/02/2021.

After a detailed discussion Chief Secretary, Assam directed all the concerned Department/Agencies to submit the required information/data which are yet to be submitted within one weeks time so as to enable the Commission to complete the Inquiry and submit the report to the Government of Assam at least within one month.

Further, the Chief Secretary directed the PCCF (WL) to ensure that the study through NESAC is done as expeditiously as possible so that Commission gets the desired mapping toward submission of its report within one months time.

The meeting ended with thanks from the Chair.

Sd/- JISHNU BARUA, IAS
Chief Secretary, Assam

1.19 The IGP(L&O), Assam, vide his aforesaid communication dated 19.02.2021 has informed the Commission as follows :-

"Further, the Govt. of Assam issued directions vide letter No. HMA-19015/19/2019-Politial(A)/44 dated 01.11.2019 (copy enclosed) stating that as regards the movement of coal through the State, the Transport Department shall check the overloading of trucks, carrying coal and take action as per law. The illegal transportation of coal, the Finance (Taxation) Department shall conduct regular drives to check if such vehicles carrying coals have valid G.S.T paper/e-way bill etc and Police would only assist the Department in performing their duties."

1.20 The Commission, having regard to the same directed the Commissioner & Secretary, Finance (Taxation) Department and Transport Department, Govt. of Assam, vide Notice dated 19.02.2021, to furnish the details of the checking/drives conducted by the said two departments in respect of overloading of trucks carrying coal and illegal transportation of coal, together with details of action taken, within fortnight, which information, however, have not been furnished to the Commission.

1.21 The Commission on 20.02.2021 received the even dated Notification issued by the Addl. Secretary to the Govt. of Assam, Environment and Forest Department extending the tenure of the Commission for a period of 3 (three) months, in continuation with the earlier Notification dated 18.07.2020 and gazatted on 20.07.2020. Thus the

tenure of the Commission to submit the report has been extended till 19.04.2021.

1.22 The Commission also on 24.02.2021 had a meeting in the Conference Room attached to the office of the Commission, as requested by the Principal Secretary, Environment and Forest Department, Govt. of Assam, to discuss about non-submission of reports/records and non-conduct of certain tests required to be done by various departments of Govt. of Assam and agencies, including the Satellite Imageries, The said meeting was attended by (i) Sri Avinash Joshi, IAS, Principal Secretary, Environment and Forest Department, Govt. of Assam (ii) Sri G.D Tripathi, IAS, Commissioner & Secretary, Environment and Forest Department, Govt. of Assam (iii) Sri A.M. Singh, IFS, PCCF & HoFF, Assam (iv) Sri Amit Sahai, IFS, PCCF(Wildlife), Assam (v) Sri Y. Suryanarayana, IFS, Addl. PCCF, Assam cum Chairman, Pollution Control Board, Assam (vi) Sri KSPV Pavan Kumar, IFS, Addl. PCCF, Assam cum Member Secretary, Assam Bio-Diversity Board (vii) Indreswar Kalita, ACS, Addl. Secretary to the Govt. of Assam, Environment and Forest Department, (viii) Sri Rohini B. Saikia, IFS, OSD, Environment and Forest Department, Govt. of Assam and (ix) Sri Rajib Baruah, AFS, Deputy Conservator of Forest cum Secretary to the Commission.

✓ The Commission has been assured by the Principal Secretary to the Govt. of Assam, Environment and Forest

Department that all the reports etc would be made available to the Commission by 05.03.2021.

The minutes of the said meeting held on 24.02.2021 is reproduced below :-

**MINUTES OF THE MEETING HELD ON 24.02.2021 AT 3 P.M. IN THE
CONFERENCE ROOM OF THE COMMISSION'S OFFICE AT STATE ZOO
AND BOTANICAL GARDEN, R.G. BARUAH ROAD, GUWAHATI,
CHAired BY JUSTICE B.P. KATAKEY, CHAIRMAN OF THE ONE MAN
COMMISSION OF INQUIRY, CONSTITUTED BY THE GOVERNMENT
OF ASSAM TO INQUIRE INTO THE ALLEGATION OF ILLEGAL COAL
MINING ACTIVITIES ETC.**

Justice B.P. Katakey, Chairman of the one man Commission of Inquiry welcomed the officers of the Environment and Forest Department, Pollution Control Board, Assam and Assam Bio-Diversity Board, present in the today's meeting as shown in Annexure- 1.

Justice B.P. Katakey chaired the meeting, which has been held as requested by Sri Avinash Joshi, Principal Secretary, Environment and Forest Department, to discuss the timeline for submission of various information/ data/ reports as required by the Commission of Inquiry. .

Sri Avinash Joshi, IAS, Principal Secretary, Environment and Forest Department, initiating the discussion has stated about the extension of the tenure of the Commission of Inquiry, till 17.04.2021 and expectation of the Government of Assam for submission of report by the Commission of Inquiry, within the said timeline.

Sri Avinash Joshi, IAS, Principal Secretary, Environment and Forest Department has also informed the Commission of Inquiry about the Meeting held on 12.02.2021, chaired by the Chief Secretary to the Govt. of Assam and the decision taken therein.

Justice B.P. Katakey, having regard to the said timeline has emphasized on the need of submission of the reports / information/ data by all the concerned Departments of Government of Assam as well as the

Agencies, as directed by the Commission, who have not submitted the same, immediately, so that the report could be submitted within the said timeline.

The requirement of Satellite Mapping of the concerned areas, as directed earlier, to answer some of the Terms of Reference, has also been emphasized by Justice B.P. Katakey.

The displeasure of the Commission of Inquiry in issuing the Communication dated 22.02.2021 by Chief Conservator of Forest and Nodal Officer (FC, Act) Assam, Officer of PCCF & HoFF, Assam having been expressed, the Principal Secretary, Environment and Forest Department asked the PCCF & HoFF, Assam to arrange conduct of test and submission of reports in terms of Order No. 27 dated 06.02.2021 passed by the Commission.

The PCCF & HoFF, Assam has assured the Commission that he will ensure conduct of the said Test as well as submission of reports by 05.03.2021.

Sri KSPV Pavan Kumar, IFS, Additional PCCF, Assam cum Member Secretary Assam Bio Diversity Board has informed the Commission that arrangement of having Satellite Imageries as directed by the Commission of Inquiry, has been made with NESAC and the preliminary report is expected within 10 days. Further time for submission of the Final Report, however would be required.

The Principal Secretary, Environment and Forest Department; PCCF (Wildlife) Assam and Member Secretary Assam Bio Diversity has also informed the Commission that all datas presently available either with various Departments or with the Assam Bio Diversity Board shall be made available to the Commission by 05.03.2021.

The Principal Secretary, Environment and Forest Department, Assam has suggested conduct of aerial survey of the concerned area by Drone.

Justice B.P. Katakey has then informed the participants that for conduct of such aerial survey direction has already been issued to the DFO, Digboi.

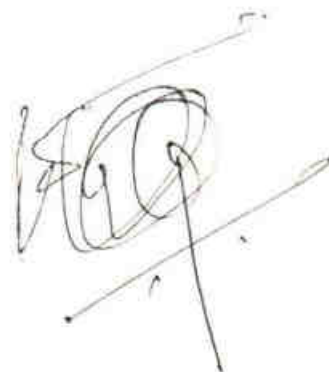
The Chairman, Pollution Control Board, Assam has also assured the Commission to arrange conduct of required test and submission of reports to the Commission of Inquiry by 05.03.2021.

The Principal Secretary, Environment and Forest Department, Assam has assured the Commission that the allegations leveled against the Forest Officials in various Disciplinary Proceedings drawn up against them would be intimated by 05.03.2021.

The Principal Secretary, Environment and Forest Department, Govt. of Assam has also assured the Commission of Inquiry that all pending informations/ datas/ reports would be made available latest by 05.03.2021.

Justice B.P. Katakey in his concluding remark has once again emphasized the need of making all the pending information/ data/ reports available to the Commission ,immediately as the Commission desires to submit the report by 17.04.2021.

The meeting ended with thanks from the Chair.



1.23 Despite the assurance given, as aforesaid, required information/data have not been submitted by few Govt. departments/agencies to the Commission. The report

on satellite mapping, directed to be conducted through NESAC or like agencies, has also not been submitted. That apart nothing has been placed before the Commission about conduct of aquatic study of Buridihing River. The Commission in the later part of this Report will discuss about the same in details. The details of dates of issuance of notices, reminders, further notices as well as submission / non-submission of the responses by various Govt. departments/agencies are given below :-

SL. NO.	NOTICE ISSUED TO	DATE OF NOTICE	DATE OF REMINDER	DATE OF RESPONSE	DATE OF FURTHER NOTICE	DATE OF SUBMISSION OF FURTHER INFORMATION (RESPONSE)
1	Union of India represented by Secretary, Ministry of Mines	29.09.2020	05.11.2020	17.11.2020 By Ministry of Coal		
2	Commissioner, Home & Political Department, Government of Assam	29.09.2020	05.11.2020	No response		
3	PCCF & HoFF	29.09.2020		13.10.2020	18.02.2021 18.02.2021	
4	Director of Geology & Mining	29.09.2020		09.11.2020		
5	Deputy Commissioner, Tinsukia	29.09.2020	05.11.2020	08.01.2021	16.10.2020 18.02.2021 = (No reply)	
6	Union of India, Ministry of Environment	29.09.2020	05.11.2020	17.11.2020		
7	PCCF, Wildlife	29.09.2020	05.11.2020	No response		
8	National Board for Wildlife	29.09.2020	05.11.2020	No response		
9	Assam Board for Wildlife	29.09.2020	05.11.2020	No response		
10	National Bio-Diversity Authority	29.09.2020	10.11.2020	23.11.2020		

11	Assam State Bio Diversity Board	29.09.2020	05.11.2020	11.11.2020		
12	Forest Advisory Committee, Union of India	29.09.2020	05.11.2020	17.11.2020		
13	DFD, Dighoi	29.09.2020		22.10.2020 05.02.2021	17.11.2020	
14	Principal Secretary, Mines and Minerals Department	29.09.2020	05.11.2020	11.11.2020 06.01.2021	03.12.2020 19.12.2020	
15	Superintendent of Police, Tinsukia	29.09.2020	05.11.2020	04.12.2020	11.11.2020 18.02.2021	
16	Principal Secretary, Environment & Forest, Government of Assam	05.10.2020	05.11.2020	02.01.2021		
17	Director General of Police, Assam	08.10.2020	05.11.2020	13.11.2020	17.11.2020	
18	Pollution Control Board of Assam	08.10.2020	05.11.2020	07.12.2020	18.02.2021 04.03.2021	
19	Chief Secretary	08.10.2020	05.11.2020	No response		
20	Additional PCCF, Wildlife & Chief Wildlife Warden	09.11.2020	18.02.2021	12.04.2021	11.12.2020	
21	Commissioner Secretary Finance & Taxation	19.02.2021		No response		
22	Principal Secretary Transport Department	19.02.2021		No response		

1.24 The Commission conducted the second field visit from 06.03.2021 to 09.03.2021, during which the Commission visited Tipong Reserve Forest and Colliery; Ledo Colliery; Borgolai Colliery; Dihing Patkai Proposed National Park; Dihing Patkai Elephant Reserve; Chipegaon Pathar; Bomgora area; Joyrampore area of Tinkopani Reserve Forest; Namphai Reserve Forest; Golai Elephant Corridor; Bogapani Elephant Corridor and other nearby areas. The Commission also conducted the public hearing on 08.03.2021 and 09.03.2021 in Conference Room of Development Block, Margherita, during which oral statement of Sri Debojit Moran, Secretary, Green Bud Society has been recorded. The Commission having regard to the application filed by Sri Moharlal Bania and Sri Surjya Kanta Dutta, allowed them to file the evidence on affidavit of their respective witnesses

within a week. Despite issuance of public notice and also intimating the memorialists as well as the persons/ organizations/ agencies/ departments, who submitted the written responses, nobody was present during the said field visit and also during the aforesaid public hearing except the persons mentioned in the proceedings dated 06.03.2021, 07.03.2021, 08.03.2021 and 09.03.2021.

The public notices published in The Assam Tribune (English daily) and the Asomiya Pratidin (Assamese daily), in their publications dated 11.02.2021 are made part of this Report as **Annexure-7**, collectively in **Volume-II**.

1.25 The Commission on 16.03.2021, 17.03.2021, 19.03.2021 and 22.03.2021 has recorded the statements of Sri Hiren Pegu, Regional Executive Engineer, PCBA, Dibrugarh, Sri S.P Dutta, General Manager, NEC, CIL, Sri Indreswar Kalita, Addl. Secretary, Environment and Forest Department, Govt. of Assam, Sri T.C. Ranjith Ram, IFS, DFO, Digboi Forest Division, Sri Bankim Sarma, Conservator of Forest(Wildlife), Sri Aniruddha Dey, Deputy Conservator of Forest (Monitoring and Evaluation), Smti. Nandita DUTta, Secretary to the Govt. of Assam, Mines and Minerals Department and Sri I.Hussain, Director, Geology and Mining, Govt. of Assam. The Commission on 19.03.2021 has also received the evidence on affidavit of Si Surjya Kanta Dutta, Sri Moharlal Bania, Sri Nasim Khan, Sri Nandeswar Gogoi, Sri Jawkhame Khamti, Sri Rituraj Bordoloi, Sri Jhula Upadhaya, Sri Ganesh Debnath and Sri Mainul Hoque.

Sri Puna Gogoi, APS, SDPO, Margherita though was summoned to appear before the Commission on 16.03.2021, he did not appear. A W.T. Message dated 15.03.2021 was sent to the Commission by the SP, Tinsukia for fixing another date after the Assembly Election 2021 is over, as Sri Puna Gogoi, APS was busy in law and order duty in connection with the said election. Since the Assembly Election of 2021 is scheduled to be over on 02.05.2021, the Commission could not fix any date before expiry of its tenure i.e 19.04.2021.

The Commission on 22.03.2021 received the even dated letter of the Addl. Secretary to the Govt. of Assam, Environment and Forest Department.

The Commission though sent mails to the memorialists as well as to the persons who have submitted their written responses, in their respective email ids, asking them about their willingness to record their oral deposition as well as that of their witnesses, if any, no response has been received. The Commission recorded the same in its order dated 18.03.2021.

1.26 The Commission on 25.03.2021 and 31.03.2021 received further information from the NEC, CIL.

1.27 The written response of the Addl. PCCF(WL) and Chief Wildlife Warden, Assam, has been taken on record by the Commission on 12.04.2021

2. Persons/organizations, who have submitted their written responses/written statements of facts.

2.1 Public notices, as aforesaid, were issued, as required under the 1952 Act and Rules framed thereunder, inviting all persons acquainted with the subject matter of enquiry to furnish to the Commission a statement, accompanied by an affidavit as well as the documents and the list of witnesses. Notices have also been issued to the parties in PIL (Suo-moto) No.3/2020, PIL No.29/2020 and PIL No. 30/2020, pending before the Hon'ble Gauhati High Court. In response to the said notices, written responses from the following persons/organizations have been received by the Commission, which has been recorded by the Commission in its proceeding dated 29.09.2020 :-

- (i) Sri Surjya Kanta Dutta
- (ii) Sri Maharial Baniya
- (iii) Sri Badri Chetry and others
- (iv) Alifa Zibrani and others
- (v) Sri Debi Goenka,
- (vi) Tezpur University Student's Council
- (vii) Sri Aniruddha Jog
- (viii) Sri Arghadeep Barua
- (ix) Sri Devajit Moran
- (x) Sri Trinayan Gogoi
- (xi) Purbuttar Khadan Mazdoor Sangha

- (xii) Rashtriya Coal Mazdoor Union
- (xiii) Assam Colliery Mazdoor Congress
- (xiv) Assam Janata Mazdoor Union
- (xv) Sri Mrinal Jyoti Bordoloi
- (xvi) Sri Joy Barua
- (xvii) Smti Kalpana Patowary
- (xviii) Sri Dwizen Barua
- (xix) Milan JyotiSangha, Lakhimpur
- (xx) Xondhan Cotton University
- (xxi) SilpiSikha
- (xxii) Sri Nirbarna Hazarika
- (xxiii) Sri Mrinmoy Khataniar
- (xxiv) Sri Amarjyoti Deka
- (xxv) Sri Vikram Rajkhowa
- (xxvi) Sri Santanu Borthakur
- (xxvii) Coal India, NE Coalfield
- (xxviii) Sri Basanta Deka.

Sri Minmoy Khataniar and Sri Amarjyoti Deka, petitioners in PIL No. 29/2020 pending before the Hon'ble Gauhati High Court, however, intimated that the petition filed in the said PIL may be considered as their written responses.

Dr. Kashmira Kakati has also participated in the inquiry by sending an Email on 26.07.2020. She has also sent the following documents, as recorded by the Commission in its proceeding dated 14.10.2020 :-

- (i) Copy of Application filed in O.A. No. 19 of 2014 before NGT.
- (ii) Copy of Application filed in M.A. No. 1027 of 2015 arising out of O.A. No. 19 of 2014.
- (iii) Copy of Reply filed by Coal India Limited (R8) in M.A. No. 1027 of 2015 arising out of O.A. No. 19 of 2014.
- (iv) Copy of Joint Affidavit filed by State of Assam (R2), PCCF & Chief Wildlife Warden (R3), District Magistrate Tinsukia (R9), DFO Tinsukia (R10), PWD NH (R12) in M.A. No. 1027 of 2015.
- (v) Copy of Rejoinder to the Reply filed by Coal India Limited (R8) in M.A. No. 1027 of 2015.
- (vi) Copy of Sur Rejoinder of Coal India Limited (R8) in M.A. No. 1027 of 2015.
- (vii) Copy of Affidavit filed by Ministry of Environment, Forest & Climate Change (R1) in O.A. No. 19 of 2014.
- (viii) Copy of SLP filed by Coal India Limited against the common Judgment & Order passed by NGT in O.A. No. 19 of 2014 & M.A. No. 1027 of 2015.
- (ix) Copy of Reply Affidavit filed by Pollution Control Board, Assam in the above SLP, i.e., Civil Appeal No. 9710-9711/2018 before Supreme Court.
- (x) Copy of Common Judgment & Order passed by NGT in O.A. No. 19 of 2014 & M.A. No. 1027 of 2015.
- (xi) Study materials including Environmental Standards for Coal Mines stipulated by MoEF, Govt. of India.

2.2 The following persons have submitted their written representations during the public hearing conducted on 26.12.2020 and 27.12.2020 :-

- i. Sanju Chetry
- ii. Sri S.K. Dutta
- iii. Indian National Mines Officials and Supervisory Staff Association
- iv. Sri S.P. Dutta of NE Coalfields
- v. Some residents of Ledo.

2.3 The following Government departments/ agencies, have submitted their written responses:-

Departments / Agencies
Union of India, Ministry of Coal
The Principal Secretary, Environment and Forest Department, Govt. of Assam
The Principal Chief Conservator of Forest and HoFF, Govt. of Assam
The Divisional Forest Officer, Digboi
The Director General of Police, Assam
The Pollution Control Board, Assam
The Director, Geology & Mining Department, Govt. of Assam
The Deputy Commissioner, District Tinsukia, Assam.
The Union of India, represented by the Secretary, Ministry of Environment, Forest & Climate Change, Govt. of India,
The National Bio-Diversity Authority
The Assam State Bio-Diversity Board
The Forest Advisory Committee, represented by the Chairperson, Ministry of Environment, Forest & Climate Change, Govt. of India,
The Principal Secretary, Mines & Minerals Department, Govt. of Assam
The Superintendent of Police, District Tinsukia, Assam
The Addl. Principal Chief Conservator of Forest (Wildlife), and Chief Wildlife Warden, Assam

3. Questionnaires issued to the Government Departments/Agencies:

3.1 The Commission, on 05.10.2020, while issuing reminder to the Principal Secretary, Environment and Forest Department, Govt. of Assam, to participate in the Commission of Inquiry, also asked the said authority to furnish the following information relating to the period under inquiry with all supporting records in the tabular form and supported by an affidavit, within a period of 15(fifteen) days from the date of receipt of the said notice:-


- I. Whether the Government of Assam and / or Government of India has framed/approved any mining policy as required by the Mines and Minerals (Development & Regulation) Act, 1957 hereinafter referred to as the "1957 Act") and the Mineral Concession Rules, 1960? If so, copies of such policy shall be made available to the Commission.
- II. Whether the State Government in exercise of powers conferred under the 1957 Act and the Rules made thereunder has issued or renewed any license or lease for mining of coal in Saleki Proposed Reserved Forest, Tikok Open Cast Area or any other forest area in the District of Tinsukia, Assam since the year 2003 till date? If so, details of all such leases/licenses in the following format along with a copy of lease/ license/statutory approvals and an authenticated map indicating boundary of the lease and each patch of forest land, if any, located within each such lease shall be made available to the Commission.

Sl. No.	Name of Lease	Name and full address of lessee	Total area of lease (ha.)	Area of forest land, if any, located within the lease (ha.)	Date of grant of lease	Period of validity of the lease
1	2	3	4	5	6	7

Details of Forest Clearance			Details of Environmental Clearance			
No. and date of in-principal approval	No. and date of final approval	Period of validity	Area approved for non-forest use (ha.)	No. and date of EC	Permissible Production (million tonne per annum)	Period of validity
8	9	10	11	12	13	14

Details of approvals under the Water and Air Acts				No. and date of prior recommendation of the National Board for Wildlife, if any
No. and date of consent to establish	Period of validity of consent to establish	No. and date of consent to operate	Period of validity of consent to operate	
15	16	17	18	19


- III. Year-wise production of coal or any other mineral from each of the lease for which details are provided in (II) above since the year 2003 till date.
- IV. Whether any such mining licenses or leases has been terminated as per the 1957 Act? If so, the details of all such leases/ licenses same shall be furnished to the Commission.
- V. Whether registers as required under Section 12 of the 1957 Act have been maintained? If so, the same shall be produced. If not, the names, addresses, mobile numbers and e-mail IDs of the persons responsible for non-maintenance of such register shall be furnished.

- VI. Whether any royalty payable under the 1957 Act and the Rules framed there under has been paid /realized from the licensee / lease- holder? If so, the year-wise details of the same shall be provided to the Commission.
- VII. Whether any area in the district of Tinsukia, Assam has been reserved for the purpose of conservation Under Section 17 A of the 1957 Act? If so, the details of the same to be furnished.
- VIII. (a) Whether any person was authorized by the Govt. of Assam as per Section 22 and 24(1) of the 1957 Act, to perform the duties and functions enumerated under the said provisions, as well as other provisions of the said Act?
- (b) If the answer to the above queries in affirmative, then a list of such persons should be provided since the year 2003 till date, also mentioning about their respective period of appointment, present place of posting, if still in the employment of Government and if already retired, then their current addresses for correspondence including telephone/mobile numbers and e-mails ids.
- (c) If the answer to the aforementioned query is in the negative, then the reasons for not appointing the "authorized person" as per Sections 22 and 24(1) of the 1957 Act shall be stated.
- IX. Whether any of the 'Authorized Persons' have at any point of time, between 2003 and now, taken any action under Section 25 of the 1957 Act and the Rules framed thereunder? If so, details of the same including the names of the 'Authorized Persons' and the Inspection Reports, details of complain(s), if any filed by the
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'Authorized Person' under Section 22 of the Mines and Minerals (D & R) Act, 1957 and the Rules framed thereunder, before the appropriate Courts of Law along with a copy of orders, if any, passed on such complaints shall be provided.

- X. Whether the powers of Central Govt. or the State Govt. has been delegated to any officer (s) under Section 26 of the 1957 Act? If so, details of the same.
- XI. Whether any recovery proceedings as envisaged in Section 25 of the 1957 Act and the Rules framed thereunder has been initiated? If so, the outcome thereof. The names, designation and present place of posting and address, mobile numbers, e-mail ids of the officer (s) who initiated such proceeding shall be provided.
- XII. Whether the powers conferred by Sections 23B and 24 of the 1957 Act have been exercised by any officer from the year 2003 till now? If so, the details of the same. If not, the names, designations, present places of posting, addresses, mobile numbers and e-mail ids of the officers concerned shall be provided.
- XIII. Whether any Rules have been framed by Govt. of Assam in exercise of the power conferred by Section 23C of 1957 Act? If so, a copy of the Rules shall be furnished.
- XIV. Whether the provisions of Chapter IV of the Mineral Concession Rules, 1960 has been followed in granting leases, if any? If not, the reasons thereof shall be provided. The names, designation, addresses, mobile

numbers, e-mail IDs and present place of posting of the officers authorized to follow the procedure shall also be mentioned.

- XV. Whether any inspection from time to time, as required under the law, have been made to ascertain that the operations are in accordance with the approved mining plan? If so, the details of the inspection conducted shall be provided. If no inspection was conducted, the reasons therefore shall be provided. The names, designations, mobile numbers, e-mail ids, present addresses and place of posting of the officers responsible for such inspection shall also be provided.
- XVI. Whether the competent persons at any time seized and take the follow up actions of seized coal, if so, the details thereof.
- XVII. Whether any mining lease has been granted to any Govt. Companies or Corporation under the provisions of the Mineral (Mining by Government Company) Rules, 2015? If so, the details of the same.
- XVIII. Whether adherence to the terms and conditions of the licenses/leases, if granted, have been ensured? If not, the reasons thereof. The names, designation, mobile number, e-mail ids, present address and place of posting of the officers responsible for such adherence shall also be provided to the Commission.
- XIX. Whether any penalty for illegal mining has been imposed and / or realized from any one? If so, the details of the same. If not, the reasons therefore.
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- XX. Whether the provisions of the Auction by Competitive Bidding of Coal Mine Rules, 2012 have been followed? If so, details of the same. If not, the reasons therefore. The names, designation, mobile number, e-mail ids, present address and place of posting of the officers responsible for such adherence shall also be provided to the Commission.
- XXI. (a) The records of all Statutory Permits and Passes issued by the Environment and Forest Department, Government of Assam for mining, extraction, storage and transportation of coal since the year 2003 till date in and around Saleki Proposed Reserved Forest (PRF) under Digboi Forest Division, including Tikok Open Cast Project of Coal India Ltd (North Eastern Coalfields).
- (b) The details of the records sought for, above are to be submitted in original and in case of failure to do so, the reasons thereof shall be stated on oath.
- XXII. Details of returns and information, if any, submitted by any owner of colliery and every person engaged in the business of production, supply and distribution of, or trade and commerce in coal to the Coal Controller as required under Rule 5 of the Colliery Control Rules 2004.
- XXIII. Whether the requirements of the Mines and Minerals (Contribution to District Mineral Foundation) Rules, 2015 have been followed? If not, the reason therefor. If any payment, as required by the said Rules have been made, details of the same shall be provided to the Commission. If the provisions are not complied with, the names, designations, mobile numbers, e-mail ids,

present addresses and place of posting of the officers responsible for such non-compliance shall also be provided.


XXIV. Whether "State Compensatory Afforestation Fund", as required under Section 4 of the Compensatory Afforestation Fund Act, 2016 has been established? If so, the details of expenditures made from such fund. If such fund has not been constituted, the reason therefor shall also be disclosed.

XXV. Whether the State Compensatory Afforestation Fund Management and Planning Authority for the State of Assam has been constituted, as required by Section 10 of the Compensatory Afforestation Fund Act, 2016.

XXVI. Whether any amount available in the State Fund is invested in the security of the Central Govt. and scheduled banks, as required by Section 26 of the Compensatory Afforestation Act, 2016? If so, the details thereof. If not, the reasons therefor shall also be disclosed.

XXVII. Whether accounts and audit of the State Fund, as required by Section 27 of the Compensatory Afforestation Fund Act, 2016 have been maintained. If so, the details of same.

XXVIII. Whether Annual Report, required to be submitted under Section 28 of the Compensatory Afforestation Act, 2016 have been submitted? If so, the copies of the Annual Reports shall be provided. If not, the reason for non-submission of the Annual Report shall be disclosed.



- XXIX. The details of compliance or otherwise of the Compensatory Afforestation Fund Rules shall also be made available to the Commission.
- XXX. The list of all the incumbents, indicating the tenure of service, who have served and are presently serving as DFO and Rangers under the Digboi Forest Range, since the year 2003 till date along with their present address for communication including telephone/mobile numbers and e-mail ids.
- XXXI. Whether any Disciplinary Proceedings have been initiated against any officials of Forest Department in connection with illegal mining? If so, the details of the same. If not, the reasons therefor. All the records of disposed of and pending Disciplinary Proceedings shall be sent to the Commission.
- XXXII. Whether the Assam State Board for Wildlife, as per Section 6 of the Wildlife (Protection) Act, 1972 has been constituted, if so, when?
- XXXIII. Whether the State Board for Wildlife has ever advised the State Govt. in terms of Section 8 of the Wildlife (Protection) Act, 1972?
- XXXIV. Whether 98.59 hectares or any quantum of forest land has been diverted for Tikok Open Cast Coal Mining Project in Saleki Proposed Reserved Forest under Digboi Division?
- XXXV. ✓ Whether Environmental Clearance (EC) under Environmental Impact Assessment Notification, 2006 has been granted to the North Eastern Coal Fields Ltd. for diversion of 98.59 hectares of forest land for Tikok Open Cast Coal Mining Project in Saleki Proposed

Reserve Forest, under Digboi Division? If so, was such approval ex post facto?

XXXVI. The date of establishment of the Dihing Patkai Wildlife Sanctuary along with a copy of all the notifications issued under the section 18 and/or section 26A of the Wild Life (Protection) Act, 1972 for the establishment of the above Sanctuary.

XXXVII. Whether the Eco-Sensitive Zone (ESZ) of the Dihing Patkai Wildlife Sanctuary has already been notified? If yes a copy of the preliminary and final notification of the eco-sensitive zone may be provided to the Commission. In no, reasons for delay in notification of the ESZ?

XXXVIII. The distance of 98.59 hectores or any forest land diverted for the Tikok Open Cast Coal Mining Project from the boundary of the Dihing Patkai Wildlife Sanctuary.

XXXIX. An authenticated map indicating boundary of Dihing Patkai Wildlife Sanctuary, boundary of notified eco-sensitive zone, if any, of the said Patkai Sanctuary and boundary of each mining lease, located within 10 kilometers from boundary of the said Sanctuary.

XL. The date of establishment of the Dihing Patkai Elephant Reserve under Digboi Forest Division along with a copy of the notification for establishment of the said Elephant Reserve?

XLI. Whether the Tikok Open Cast Coal Mining Project is within Saleki Proposed Reserve Forest and the same is a part of the Dihing Patkai Elephant Reserve under Digboi Division?

- XLII. Whether there is any diversion of any forest land under Dihing Patkai Elephant Reserve for non-forest purpose? If so, whether prior approval of the Central Govt. under Section 2 of the Forest (Conservation) Act, 1980, for each such diversion was obtained? If yes, a copy of the in-principle and final approval under the said Act for the use of forest land for the mining project shall be provided to the Commission. If no, the details of action(s), if any, taken against the persons responsible for use of forest land without obtaining prior approval of the Central Government shall be provided to the Commission.
- XLIII. Whether any notification, as required under Section 5 of the Assam Forest Regulation, 1891, proposing to constitute Saleki Reserve Forest was issued? If so, a copy of the notification may be provided to the Commission?
- XLIV. Whether any notification, as required under Section 17 of the Assam Forest Regulation, 1891, to constitute the Saleki Reserve Forest was issued? If so, a copy of the notification may be provided to the Commission? If no, the reasons thereof?
- XLV. Whether the requirements of EIA Notifications 2006 in granting EC to North Eastern Coal Field Ltd. have been followed, if so, the details of the same?
- XLVI. Whether the Expert Appraisal Committee (EAC) has carried out a detailed scrutiny of Environmental Impact Assessment Report and the outcome of the Public Consultation Process in the matter of appraisal of the aforementioned Coal Mining Project and whether the

EAC processed the application for prior EC to the aforesaid Coal Mining Project?

- XLVII. Whether the Assam State Board for wildlife and/ or the Standing Committee of the National Board for Wildlife ever recommended use of any Forest land including the land within the Dihing Patkai Elephant Reserve for Tikok Open Cast Coal Mining Project? If yes, a copy of the minutes of the concerned meeting(s) of the State Board for Wildlife or the Standing Committee of the National Board for Wildlife shall be provided to the Commission?

To have an assessment of the extent of illegal mining in and around the Saleki Proposed Reserve since the year 2003 a study shall be commissioned through the North Eastern Space Application Centre (NESAC), Umiam, Meghalaya or the National Remote Sensing Agency (NRSA), Hyderabad or the Space Application Centre (SAC), Ahmedabad to assess and map the areas under mining in and around (10 km from its boundary) the Saleki Proposed Reserve Forest in the year 2003, 2010, 2015, 2018 and 2020 by using high resolution satellite imageries and a report of such study shall be submitted to the Commission within three months.

3.2 The Commission vide notice dated 08.10.2020, while reminding the requirement of filing the statement of facts and documents pursuant to the public notice dated 10.08.2020, had also asked the DGP, Assam, to furnish the following information with all supporting documents, within 15(fifteen) days, in the format enclosed thereto :-

- i. Police outpost, police station, district and date wise lodging of any First Information Report from the year 2003 till date relating to any illegal coal mining activity including mining, storage, transportation etc.
- ii. Whether the said FIRs have been registered? If so, under what provisions of law?
- iii. The result of investigations. If the investigation is still pending, reasons thereof.
- iv. If after investigation charge-sheets have been filed, the outcome of the trial.
- v. If investigation resulted in submission of Final Report, whether the Court has accepted the same?
- vi. If such FIRs have not been registered, the reasons therefor.
- vii. The action, if any taken and/ or proposed to be taken against the police officers for non-registration of the FIRs.
- viii. If no such actions have been taken against any police officer, the reasons thereof.
- ix. The steps, if any taken for registration of the FIRs still not registered.
- x. Names, designations, present place of posting, mobile numbers and e-mail IDs of the police officers responsible for registration of FIRs which have not been registered.
- xi. Names, designations, present place of posting, mobile numbers and e-mail IDs of the investigating officers of the PS Cases, where investigation is still pending.

3.3 The Commission, also, vide notice dated 17.11.2020 directed the DGP, Assam to furnish the following, within fifteen days of the receipt of the notice :-

- (i) Required information in terms of the Notice No. BPKJ/COM/Notice/2020-2021/25 dated 8.10.2020, in the prescribed format, in respect of all the Districts of the State of Assam.
- (ii) Information in respect of FIRs/ Police Station Cases lodged/registered in Margherita Police Station, Lekhapani Police Station and Lido Police Outpost, as informed by the Directorate of Geology and Mining, Government of Assam vide their Written Submission dated 05.11.2020, copy of which is enclosed herewith for your information.
- (iii) Whether any other FIRs, other than mentioned in the respective reports of the Superintendents of Police, Dibrugarh and Tinsukia districts, were lodged in any Police Station or Outpost, from the year 2003 till date, if so, the details of the same.

3.4 Notice dated 08.10.2020 was issued to the Chairman, Pollution Control Board, Assam to furnish the following information, apart from submission of written statement in respect of the Terms of Reference. The said information were directed to be furnished, within fifteen days from the date of receipt, in date and yearwise chronologically and in tabular form, giving details of the names and addresses of the persons concerned, within a period of 15(fifteen) days from the date of receipt of the said notice.:-

- i. Prior Consent to Establish (CTE) and Consent to Operate (CTO) applied for, by any individual or organization, under Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as the Air Act) and the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the Water Act).
- ii. CTE and CTO granted to any individual or organization under the Air and Water Acts.

- iii. Cancellation, if any, of any CTE and CTO granted under Air and Water Act.
- iv. Technical and statistical data relating to noise pollution required to be collected, compiled and published under Rule 4 (3) of the Noise Pollution (Regulation and Control) Rules, 2000 (hereinafter referred to as 2000 Rules), in respect of area covering Saleki Proposal Reserve Forest and Tikok Open Cast Project Area etc.
- v. Action, if any taken against any person or organization for violation of any provisions of Environment (Protection) Act, 1986 (hereinafter referred to as the 1986 Act) and the Rules made thereunder.
- vi. Inspection required to be carried out under Section 10 of the 1986 Act.
- vii. Sample of air, water, soil and other substances collected and analyzed as required under Section 11 of the 1986 Act and the Rules framed thereunder.
- viii. Penal actions taken under Sections 15, 16 and 17 read with Section 19 of the 1986 Act.
- ix. Applications, if any, filed under Section 22 A of the Air Act.
- x. Inspection, if any, conducted as required under Section 24 of the Air Act.
- xi. Information sought under Section 25 of the Air Act.
- xii. Sample collected and analyzed as required under Section 26 of the Air Act.
- xiii. Any order passed to stop the mining activities for contravention of the Air and Water Act.
- xiv. Penal action taken under Chapter VI of the Air Act.
- xv. Information sought for and collected under Section 20 of the Water Act.

- xvi. Sample collected and analysis done under Section 22 of the Water Act.
- xvii. Inspection done under Section 23 of the Water Act.
- xviii. Directions issued under Section 33 A of the Water Act.
- xix. Penal action taken as required under Chapter VII of the Water Act.
- xx. Registers required to be maintained under Section 51 of the Air Act. Similar register, if any, maintained under the Water Act.
- xxi. (a) Reasons, if any, for non-compliance of the provisions of the 1986 Act and Rules framed thereunder, Air Act, Water Act, 1989 Rules, 2000 Rules.
 (b) Names, designations, present places of posting, mobile numbers and email IDs of the officers responsible for compliance of the different provisions of the aforesaid Acts and Rules.
 (c) The details of action, including disciplinary action, if any, taken against any officer for non-compliance of the provisions of the aforesaid Acts and Rules.

3.5 The Divisional Forest Officer, Digboi Forest Division was asked to furnish the Commission the following further information, vide notice dated 17.11.2020, within fifteen days from the date of receipt of the notice. He was also asked to provide the planning to conduct the aerial survey of all the damaged forest areas by using drones and the timeline for its completion:-

- (i) The lease agreement by which NEC, CIL was allowed to carry out Coal Mining in Tikok OCP in the year 1973.
- (ii) Application filed by CIL under Forest (Conservation) Act 1980, for renewal of lease in 2003.

- (iii) *Non-approval of the application for the aforesaid renewal.*
- (iv) All records / documents by which the DFO, Digboi stopped the NEC CIL to operate the Coal Mine.
- (v) Application for renewal of Mining Lease in 98.59 hectare of Tikok OCP in Saleki PRF filed by the NEC CIL in 2012.
- (vi) Records of the recommendation, if any, made by the DFO, Digboi Division or any other authority of the Forest Department of the Government of Assam, for approval of the renewal of Mining Lease in 98.59 hectare of Tikok OCP.
- (vii) Records of the action taken against NEC CIL for breaking 73.20 hectare of Forest in violation of the applicable forest laws.
- (viii) All records supporting your statement in point no. (5) of your Written Submission.

3.6 The Commission, apart from the General Notice dated 29.09.2020 issued to the Principal Secretary to the Govt. of Assam, Mines and Minerals Department, had also issued the notice dated 03.12.2020 to the Principal Secretary and also to the Director, Geology and Mining, Govt. of Assam to furnish the following information. The said information were asked to be furnished within 15(fifteen) days from the date of issuance of notice :-

- I. Whether the Government of Assam and / or Government of India has framed/approved any mining policy as required by the Mines and Minerals (Development & Regulation) Act, 1957 hereinafter referred to as the "1957 Act") and the Mineral Concession Rules, 1960? If so, copies of such policy shall be made available to the Commission.

- II. Whether the State Government in exercise of powers conferred under the 1957 Act and the Rules made thereunder has issued or renewed any license or lease for mining of coal in Saleki Proposed Reserved Forest, Tikok Open Cast Area or any other forest area in the District of Tinsukia, Assam since the year 2003 till date? If so, details of all such leases/licenses in the following format along with a copy of lease/ licence/statutory approvals and an authenticated map indicating boundary of the lease and each patch of forest land, if any, located within each such lease shall be made available to the Commission:

Sl. No.	Name of Lease	Name and full address of lessee	Total area of lease (ha.)	Area of forest land, if any, located within the lease (ha.)	Date of grant of lease	Period of validity of the lease
1	2	3	4	5	6	7


Details of Forest Clearance				Details of Environmental Clearance		
No. and date of in-principal approval	No. and date of final approval	Period of validity	Area approved for non-forest use (ha.)	No. and date of EC	Permissible Production (million tonne per annum)	Period of validity
8	9	10	11	12	13	14

Details of approvals under the Water and Air Acts				No. and date of prior recommendation of the National Board for Wildlife, if any
No. and date of consent to establish	Period of validity of consent to establish	No. and date of consent to operate	Period of validity of consent to operate	
15	16	17	18	19


- III. Year-wise production of coal or any other mineral from each of the lease for which details are provided in (II) above since the year 2003 till date.
- IV. Whether any such mining licenses or leases has been terminated as per the 1957 Act? If so, the details of all such leases/ licenses same shall be furnished to the Commission.
- V. Whether registers as required under Section 12 of the 1957 Act have been maintained? If so, the same shall be produced. If not, the names, addresses, mobile numbers and e-mail IDs of the persons responsible for non-maintenance of such register shall be furnished.
- VI. Whether any royalty payable under the 1957 Act and the Rules framed there under has been paid /realized from the licensee / lease- holder? If so, the year-wise details of the same shall be provided to the Commission.
- VII. Whether any area in the district of Tinsukia, Assam has been reserved for the purpose of conservation Under Section 17 A of the 1957 Act? If so, the details of the same to be furnished.
- VIII. (a) Whether any person was authorized by the Govt. of Assam as per Section 22 and 24(1) of the 1957 Act, to perform the duties and functions enumerated under the said provisions, as well as other provisions of the said Act?
- (b) If the answer to the above query is in affirmative, then a list of such persons should be provided since the year 2003 till date, also mentioning about their respective period of appointment, present place of posting, if still in

the employment of Government and if already retired, then their current addresses for correspondence including telephone/mobile numbers and e-mails ids.

(c) If the answer to the aforementioned query is in the negative, then the reasons for not appointing the "authorized person" as per Sections 22 and 24(1) of the 1957 Act shall be stated.

- IX. Whether any of the 'Authorized Persons' have at any point of time, between 2003 and now, taken any action under Section 25 of the 1957 Act and the Rules framed thereunder? If so, details of the same including the names of the 'Authorized Persons' and the Inspection Reports, details of complain(s), if any filed by the 'Authorized Person' under Section 22 of the Mines and Minerals (D & R) Act, 1957 and the Rules framed thereunder, before the appropriate Courts of Law along with a copy of orders, if any, passed on such complaints shall be provided.
- X. Whether the powers of Central Govt. or the State Govt. has been delegated to any officer (s) under Section 26 of the 1957 Act? If so, details of the same.
- XI. Whether any recovery proceedings as envisaged in Section 25 of the 1957 Act and the Rules framed thereunder has been initiated? If so, the outcome thereof. The names, designation and present place of posting and address, mobile numbers, e-mail ids of the officer (s) who initiated such proceeding shall be provided.
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- XII. Whether the powers conferred by Sections 23B and 24 of the 1957 Act have been exercised by any officer from the year 2003 till now? If so, the details of the same. If not, the names, designations, present places of posting, addresses, mobile numbers and e-mail ids of the officers concerned shall be provided.
- XIII. Whether any Rules have been framed by Govt. of Assam in exercise of the power conferred by Section 23C of 1957 Act? If so, a copy of the Rules shall be furnished.
- XIV. Whether the provisions of Chapter IV of the Mineral Concession Rules, 1960 has been followed in granting leases, if any? If not, the reasons thereof shall be provided. The names, designation, addresses, mobile numbers, e-mail IDs and present place of posting of the officers authorized to follow the procedure shall also be mentioned.
- XV. Whether any inspection from time to time, as required under the law, have been made to ascertain that the operations are in accordance with the approved mining plan? If so, the details of the inspection conducted shall be provided. If no inspection was conducted, the reasons therefor shall be provided. The names, designations, mobile numbers, e-mail ids, present addresses and place of posting of the officers responsible for such inspection shall also be provided.
- XVI. Whether the competent persons at any time seized and take the follow up actions of seized coal, if so, the details thereof.

- XVII. Whether any mining lease has been granted to any Govt. Companies or Corporation under the provisions of the Mineral (Mining by Government Company) Rules, 2015? If so, the details of the same.
- XVIII. Whether adherence to the terms and conditions of the licenses/leases, if granted, have been ensured? If not, the reasons thereof. The names, designation, mobile number, e-mail ids, present address and place of posting of the officers responsible for such adherence shall also be provided to the Commission.
- XIX. Whether any penalty for illegal mining has been imposed and / or realized from any one? If so, the details of the same. If not, the reasons therefor.
- XX. Whether the provisions of the Auction by Competitive Bidding of Coal Mine Rules, 2012 have been followed? If so, details of the same. If not, the reasons therefor. The names, designation, mobile number, e-mail ids, present address and place of posting of the officers responsible for such adherence shall also be provided to the Commission.
- XXI. (a) The records of all Statutory Permits and Passes issued by the Environment and Forest Department, Government of Assam for mining, extraction, storage and transportation of coal since the year 2003 till date in and around Saleki Proposed Reserved Forest (PRF) under Digboi Forest Division, including Tikok Open Cast Project of Coal India Ltd (North Eastern Coalfields).
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(b) The details of the records sought for, above are to be submitted in original and in case of failure to do so, the reasons thereof shall be stated on oath.

XXII. Details of returns and information, if any, submitted by any owner of colliery and every person engaged in the business of production, supply and distribution of, or trade and commerce in coal to the Coal Controller as required under Rule 5 of the Colliery Control Rules 2004.

XXIII. Whether the requirements of the Mines and Minerals (Contribution to District Mineral Foundation) Rules, 2015 have been followed? If not, the reason therefor. If any payment, as required by the said Rules have been made, details of the same shall be provided to the Commission. If the provisions are not complied with, the names, designations, mobile numbers, e-mail ids, present addresses and place of posting of the officers responsible for such non-compliance shall also be provided.

XXIV. The list of all incumbents, including the Directors, indicating the tenure of service, who were/are responsible for compliance of the requirements of the provisions of the 1957 Act and the Rules framed thereunder, since the year 2003, along with their present addresses for communication including telephone/mobile numbers and e-mail ids.

XXV. Whether any disciplinary proceedings has been initiated against any officials of your department in connection with the illegal coal mining including storage and transportation? If so, the details of the same is to be furnished. If not, the reason therefor. All records of,

disposed of and pending disciplinary proceedings, shall be sent to the Commission.

To have an assessment of the extent of illegal mining in and around the Saleki Proposed Reserve since the year 2003 a study shall be commissioned through the North Eastern Space Application Centre (NESAC), Umiam, Meghalaya or the National Remote Sensing Agency (NRSA), Hyderabad or the Space Application Centre (SAC), Ahmedabad to assess and map the areas under mining in and around (10 km from its boundary) the Saleki Proposed Reserve Forest in the year 2003, 2010, 2015, 2018 and 2020 by using high resolution satellite imageries and a report of such study shall be submitted to the Commission within three months.

4. Conduct of Field Visit :

4.1 The Commission, with due notice to all concerned and also after issuance of public notices in the newspapers, as aforesaid, conducted field visit on 25.12.2020, 06.03.2021, 07.03.2021, 08.03.2021 and 09.03.2021. The Commission, during the field visit noticed continued rat-hole coal mining, encroachment of forest land, including the Reserve Forest land by destructing the forest, obstructions in elephant corridor, non-implementation of Mine Closure Plan by the NEC, CIL, apart from the adverse environmental affect due to coal mining activities. The Commission, in the later part of this report would discuss in details what it observed during such field visits.

The memoranda of field visit prepared by the Commission are made part of this Report as **Annexures 8 and 9 in Volume-II.**

5. Persons/organizations whose statements have been recorded by the Commission during public hearings :

5.1. During the public hearings held on 26.12.2020, 27.12.2020, 08.03.2021 and 09.03.2021 at Margherita and on 16.03.2021, 17.03.2021, 18.03.2021 19.03.2021 and 22.03.2021 in Guwahati, the Commission recorded the statements of Diganta Chetia; Lakhya Jyoti Gogoi; Garnel Minze; Sukhdeb Sarma; Vinod Kr. Gourh; Malati Gorh; Bihani Gorh; Sabitri Lama (Tamang); Belu Orang; Januariuse Ekka; Lakhinder Nag, Debojit Moran, Bharat Bhushan Borthakur, Suryya Gogoi, Krishna Acharjee and Sri Siddharth Rasaily at Margherita and Smti. Nandita Dutta, Secretary to the Govt. of Assam, Mines and Minerals Department; Sri Indeshwar Kalita, Addl. Secretary to the Govt. of Assam, Environment and Forest Department, Sri T.C. Ranjith Ram, IFS, DFO Digboi Forest Division, Assam, Sri Bonkim Sarma, IFS, Conservator of Forest(Wildlife), office of the PCCF(Wildlife), Assam; Sri Aniruddha Dey, Deputy Conservator of Forest(Monitoring and Evaluation), office of the PCCF & HoFF; Sri Hiren Pegu, Regional Executive Engineer, PCBA, Dibrugarh; Sri S.P. Dutta, General Manager, NEC, CIL and Sri I. Hussain, Director, Geology and Mining, Govt. of Assam. Few documents submitted by them have also been taken on record. That


apart, written representations filed during the public hearing on 26.12.2020 by Sri Sanju Chetri, S.K. Dutta and Indian National Mine Official and Supervisory Staff Association have also been taken on record. The Commission also took on record the evidence on affidavits of few witnesses of Sri Surjya Kanta Dutta and Sri Moharlal Bania, apart from the communications dated 19.03.2021 and 20.03.2021 submitted by Sri Bankim Sarma, IFS, Conservator of Forest (Wildlife) and Smti. Nandita Dutta, ACS, Secretary to the Govt. of Assam, Mines and Minerals Department, respectively. Further, the communication dated 22.03.2021 submitted by the Addl. Secretary to the Govt. of Assam, Environment and Forest Department along with the enclosure and the communications dated 23.03.2021 and 31.03.2021 with enclosures thereto of the General Manager, NEC, CIL have also been taken on record.

The aforementioned persons however, were not cross-questioned either by any memorialists or by any Govt. departments/ agencies or by anyone who has responded to the notice issued by the Commission.

6. Persons, if any, to whom notices under Section 8B of the Commissions of Inquiry Act, 1952 were issued :

6.1 The Commission, due to the delay in submission of the written responses by few concerned departments/ agencies of Govt. of Assam, non-submission of the written

responses by certain authorities/departments/ agencies of Govt. of Assam, non-appearance of few officers of Govt. of Assam for recoding their statements as well as non-conduct of satellite mapping, as aforesaid, was unable to issue the notice, as required by Section 8B of the Commissions of Inquiry Act, 1952 to any person so as to give such persons a reasonable opportunity of being heard and also to produce evidence in their defence, as the tenure of the Commission is coming to an end on 19.04.2021, though one of the Terms of Reference for the Commission was to inquire into and fix responsibility upon Govt. officials of any department found involved in commission of any illegal mining or any other illegal activity in the forest area mentioned in the notification appointing the Commission. The Commission before taking a decision on issuance of notice under Section 8B of the aforesaid Act is required to consider all the materials available on record. Before fixing the responsibility upon the Govt. official issuance of the notice under Section 8B of the Commission of Inquiry Act, 1952, giving such Govt. officers a reasonable opportunity of being heard and to produce evidence in his defence, is a must, which, however, could not be done by the Commission, for the reasons stated above and also as discussed below. Section 8B of the said Act is reproduced below :



✓ 8B. Persons likely to be prejudicially affected to be heard.—If, at any stage of the inquiry, the Commission,—

- (a) considers it necessary to inquire into the conduct of any person; or
- (b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached. ✓

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CHAPTER-III

DISCUSSION AND DECISION

1. Reserve Forests (RFs), Proposed Reserve Forests (PRFs), Wildlife Sanctuary, Proposed National Park and Dihing Patkai Elephant Reserve in Digboi Forest Division:

1.1 The Terms of Reference notified by the Govt. of Assam relates to the PRF, RF, Wildlife Sanctuary and Proposed National Park under Digboi Forest Division. While the Terms of Reference 1 to 5 relate to Saleki PRF including Tikok OCP, the Terms of Reference 6 to 8 cover the entire Digboi Forest Division. The said Forest Division comprises of 15 (fifteen) RFs, 1 (one) Wildlife Sanctuary, 6(six) PRFs and 1 (one) Proposed National Park, as well as Dihing Patkai Elephant Reserve. Map of Digboi Forest Division indicating the RFs, PRFs, Wildlife Sanctuary and Proposed National Park is given in Figure 1 below:



Fig.-1. – Map of Digboi Forest Division showing the RF, PRF, Wildlife Sanctuary and Proposed National Park. (Source DFO, Digboi Forest Division)

The map showing the Dihing Patkai Wildlife Sanctuary and Proposed Dihing Patkai National Park under Dibrugarh and Digboi Forest Divisions is given in **Figure-2** below.



Fig.-2 – Map of Dihing Patkai Wildlife Sanctuary and Dihing Patkai Proposed National Park in Digboi and Dibrugarh Forest Divisions (source DFO, Digboi Forest Division)

The boundary map of Dihing Patkai Elephant Reserve is given in Figure-3 below :-

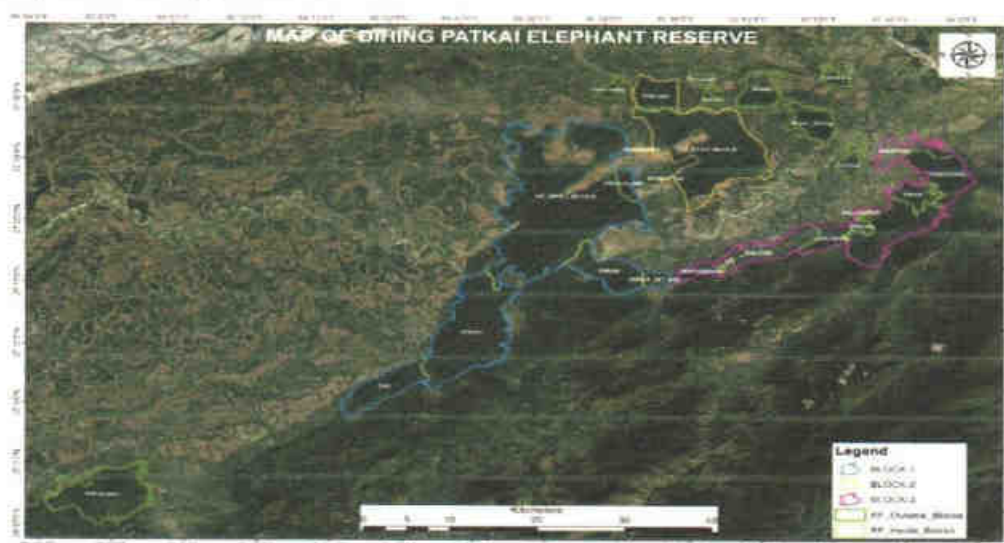


Fig-3 Boundary map of Dihing Patkai Elephant Reserve. (Source Addl PCCF (WL) and Chief Wildlife Warden, Assam)

1.2 The names of the RFs, Wildlife Sanctuary, PRFs, the Proposed National Park and the Elephant Reserve, with the area, notifications etc. are as follows :-

Sl. No	Reserve Forest / PRF	Notified area (Ha)	Diversed (ha)	Total area (Ha) as per reserve register	Govt. Notification number and Date	Area (Ha) as per GIS platform of present plan
RESERVE FORESTS (RFs)						
1	Bogapani RF	96.2	0	96.20	No. 2673 R dt. 23-07-1929	109.091
2	Digboi West RF	956.8	0	921.44	No. 295 R dt. 02-02-1926	825.158
			3.36		No. 1203 RS dt. 09-04-1936	
			32.0		No. 4237 GJ dt. 29-09-1937	
3	Digboi East RF	162.0	0	69.36	No. 295 R dt. 02-02-1926	56.983
			38.28		No. 1203 RS dt. 09-04-1936	
			54.36		No. 3218 GJ dt. 21-07-1937	
4	Dirok R.F.	3006.0	0	3682.14	No. 1792 R dt. 18-05-1929	3151.996
	1 st addition Dirok R.F.	676.14	0		Final Govt. Notification No. FRS /163/94/57 dt. 18-07-1996	
5	Kotha RF	1120.0	0	1120.0	No. FOR/SETT/138/59/39 dt. 21-03-1963	1071.29
6	Lekhapani RF	1380.0	0	1380.0	No. FOR/SETT/791/68/7 dt. 31-12-1968	1419.72
7	Makumpani RF	477.2	0	477.2	No. FOR/SETT/172/66/17 dt. 14-12-1968	-
8	Namphai RF	744.0	0	744.0	No. 3819 R dt. 12-11-1934	1751.25
	-do- 1 st addition	1348.0	0	1348.0	No. FOR/SETT/447/57/18 dt. 17-11-1959	
9	Paharpur RF	166.0	0	166.0	No. FRS/16/99/16 dt. 17-12-1959	-
10	Tirap RF	1437.6	0	1437.6	No. 2628 R dt. 29-08-1933	1532.968
11	Tipong RF	440.0	0	440.0	No. 3818 R dt. 12-11-1934	391.182
12	Tinkopani RF	2997.0	0	2997.0	No. FOR 172/56/23 dt. 27-07-1959	3417.434
13	Upper Dehing (E) RF	12910.0	0	13169.82	No. 5088 R dt. 31-10-1898	13079.987
	-do- 1 st addition	259.82	0		No. FOR/SETT/388/64/16 dt. 17-12-1965	
14	Upper Dehing (W) RF	26548.4		26548.4	No. 5088 R dt. 31-10-1898	27053.0663
	TOTAL RF's	54725.16	128	54597.16		53860.12581
PROPOSED RESERVE FORESTS (PRFs)						
1	Tirap PRF	3025.0	-	3025.0	Pre. Notification No. FRS 170/92/20 dt. 21-01-2000	-
2	Tipong PRF	2020.0	-	2020.0	Pre. Notification No. FRS 163/94/82 dt. 01-12-1999	-
3	Saleki PRF	2940.0	-	2940.0	Pre. Notification No. FRS 93/76/2 dt. 07-06-1976	-
4	Dewasali PRF	220.0	-	220.0	Pre. Notification No. FRS 66/72/2 dt. 06-04-1972	-
5	Makumpani PRF	55.0	-	55.0	Pre. Notification No. FRS 350/89/18 dt. 02-05-1990	-
6	Dalai PRF	224.15	-	224.15	Pre. Notification No. FRS 163/94/66 dt. 18-07-1996	-
	Total PRF's	8484.15	-	8484.15		-

(Source DFO, Digboi Forest Division)

Dihing Patkai Elephant Reserve

Sl. No	Name of the Elephant Reserve	Date of Notification	Area
1	Dihing Patkai Elephant Reserve	19.04.2003	937 Sq. KM

Wildlife Sanctuary under Digboi and Dibrugarh Forest Divisions:

Sl.No.	Name of Wildlife Sanctuary	Date of notification	Area
1	Dihing Patkai Wildlife Sanctuary	19.06.2004	111.19 Sq.km

(Source DFO, Digboi Forest Division)

Proposed National Park under Digboi and Dibrugarh Forest Divisions:

Sl.No.	Name of Wildlife National Park	Date of notification	Area
1	Dihing Patkai Proposed National Park	01.12.2020	231.65 Sq.km

(Source DFO, Digboi Forest Division)

2. Gist of the contentions of the persons/ organizations, in their respective written responses / memoranda:

2.1 Before proceeding further, the Commission outlines the contentions of the persons/organizations in their respective written responses/memoranda submitted before the Commission.

2.2. Sri Surjya Kanta Dutta, Chairman, Purbanchal Welfare Organization, Margherita in his written response, has outlined the adverse environmental effect of Open Cast Mining of coal by NEC, CIL on the forest and the non-forest land and also the necessity to stop the practice of open cast mining. He has also highlighted the illegal coal mining activities in various RFs, PRFs, Elephant Reserve etc., apart from the need to stop all such illegal mining activities. Sri

Dutta has also stated about mushrooming of coke coal industries near the coal mines. The reclamation of all damaged hills by planting the local species of the plants and also requirement of payment of adequate compensation to the victims of the illegal coal mining activities have also been projected in his written response.

Sri Moharlal Bania, Secretary, Ledo Sonali Gaon Pathar Parichalana Samiti in his written response has also projected the need of closure of all open cast mines as well as stoppage of all sorts of illegal coal mining activities, which according to him has not only caused extensive damage to the flora and fauna but also to the paddy fields affecting its fertility and productivity.

Sri Badri Chetri & eight others in their joint memorandum have also projected what the aforementioned memorialists have projected in their respective memorandum.

Ms. Alifa Zibrani, Fridays for Future, Guwahati has mentioned about illegal coal mining activities in Dihing Patkai Elephant Reserve and over other forest and non-forest land, resulting in environmental degradation and demanding immediate stoppage of the same. The adverse effects of the coal mining activities on the environment has also been projected in the memorandum submitted.

Sri Debi Goenka, Environmentalist and Executive Trustee, Conservation Action Trust, Mumbai, has projected the serious threats posed to Dihing Patkai Rain Forest area, which is acknowledged as the Amazon of the

East, from the menace of illegal coal mining inside and around the forest areas, including such mining by NEC, CIL, without obtaining any lease under the MMDR Act, as well as, by using the forest land for non-forest purpose without obtaining any approval as required under the 1980 Act. He has also projected the adverse environmental effects, apart from the need to stop all such illegal mining activities.

Tezpur University Students' Council in their response e-mailed to the Commission demanded immediate stoppage of all forms of illegal mining over any land, more particularly, in Dihing Patkai Elephant Reserve. It has also been stated that Dihing Patkai Wildlife Sanctuary needs to be protected, so also the Rain Forest.

In the memorandum mailed to the Commission **Aniruddha Jog** has objected the mining of coal not only in the Reserve Forest, but also over any land. According to him, total ban of mining of coal is required to be imposed and our country should source energy to electric power.

Sri Arghadeep Baruah in his mail sent to the Commission has projected the discrepancies in processing the request of NEC, CIL for diversion of 98.59 Ha of forest land in Saleki PRF for Tikok OCP and also breaking of part of such forest land without obtaining any approval, mandated by 1980 Act. He has also projected the need for refusal to accord any approval for carrying out any mining activities over the forest land.

Sri Debojit Moran, Secretary, Green Bud Society, has stated about the illegal rat-hole mining as well as open cast mining in various RFs and PRFs. He has also stated the need to stop all drilling activities by Oil India Limited in Soraipung area in Dihing Patkai Rain Forest. According to him, the mining activities undertaken by NEC, CIL in Saleki PRF being illegal, the same needs to be stopped.

In the joint memorandum submitted by **Purbuttar Khadan Mazdoor Sangh(BMS), Rastriya Coal Mazdoor Union, Assam Colliery Mazdoor Congress and Assam Janata Mazdoor Union**, affiliated to **Akhil Bharatiya Mazdoor Sangh, CITU, INTUC and Hind Mazdoor Sabha**, respectively, while supporting the mining activities by NEC, CIL, have demanded immediate stoppage of all form of illegal coal mining activities in and around Saleki PRF. They have also projected the need of granting forest clearance, as required under the 1980 Act to NEC, CIL for its Tikok OCP, Lekhapani OCP and Tikok Extension OCP, in public interest.

Sri Mrinaljyoti Bordoloi in his memorandum has also projected illegal diversion of 98.59 Ha of forest land in Saleki PRF for Tikok OCP by NEC, CIL, apart from illegal rat-hole mining of coal in the said PRF, as well as, in certain RFs by some other persons/ organizations. He has also mentioned about the illegal Open Cast Mining practiced in some areas. According to him such mining activities needs to

be stopped, as it has caused extensive damage to the flora and fauna and also to the environment.

Sri Jay Barua, an Artist / Musician, has also projected the need for preservation of Dihing Patkai Elephant Reserve, as well as, the Rain Forest under Digboi Forest Division. He has stated that conversion of forest land for non-forest purpose would further cause damage to the environment. The requirement of restoration of the forest as well as removal of encroachment of the forest land and also, the encroachment of elephant corridors have also been projected in his memorandum. The need to identify the persons involved in the illegal coal mining activities has also been projected.

Another artist/musician, **Smti.Kalpana Patowary** in her memorandum has also projected the need to protect the environment, as well as, the flora and fauna, apart from the Rain Forest, by stopping all sorts of illegal coal mining activities in Digboi Forest Division.

Expressing concern about the coal mining activities in Dihing Patkai area, **Sri Dwijen Barua**, General Secretary, United Assam Association of the United Kingdom (UAAUK), has stressed upon the need of protecting the Rain Forest of Dihing Patkai area. He has mentioned about the future environmental catastrophe, if the coal mining activities are allowed to continue.

Milanjyoti Sangha of Lakhimpur in the memorandum has also stated about illegal coal mining

activities by NEC, CIL over the forest land and also, such mining activities conducted by others thereby causing extensive damage to flora and fauna. The said Sangha has demanded immediate stoppage of illegal coal mining activities and restoration of the environmental damage caused. Similar demand has also been made by **Xondhan, Cotton University** in the mail sent to this Commission.

Smti. Silpi Sikha Phukan, a PhD Research Scholar of Jawaharlal Nehru University, projected the ongoing illegal rat-hole mining in RFs and PRFs, threatening the rich bio-diversity of the region, illegal open cast mining in the forest and non-forest land resulting in rapid decline of Rain Forest Eco System in Digboi Forest Division. The need for removal of encroachment over forest land and also protection of Dihing Patkai Rain Forest, the Indian population of White Winged Wood Duck, which is the State bird of Assam, is found. Stress on the need for restoration of environment has also been given in the memorandum filed. Identical contentions have also been mailed by **Niborna Hazarika**, Convener, North East Students' Forum, Jawaharlal Nehru University, Delhi, in his memorandum.

Sri Mrinmoy Khataniar and **Sri Amarjyoti Deka**, who are the petitioners in PIL No. 29/2020, have informed the Commission telephonically that the petition filed in the aforementioned PIL may be treated as their written submission. In the said petition, they have, while projecting the illegal coal mining activities of NEC, CIL, demanded non-

conversion of forest land in Saleki PRF for non-forest purpose, declaration of Dihing Patkai Elephant Reserve and the Corridors and other eco-sensitive areas around Dihing Patkai Wildlife Sanctuary as Ecologically Fragile Region under the Environment Protection Act, 1986, implementation of the Wildlife(Protection) Act, 1972, the National Wildlife Action Plan, etc., declaration of Jeypore Reserve Forest, Tirap PRF, Dalai PRF, Makumpani PRF as Wildlife Sanctuary and also the need to conduct an inquiry, by the Central Bureau of Investigation or Central Vigilance Commission, into the illegal mining activities to find out the persons responsible.

Sri Bikram Rajkhowa and **Sri Santanu Borthakur** have also projected the need to stop the illegal coal mining activities and diversion of forest land for non-forest purpose, to protect the Dihing Patkai Rain Forest and to proceed against the persons involved in such illegal mining activities, as well as to take penal actions against the persons under the various laws including the environmental laws.

Sri Basanta Deka, who is the petitioner in PIL No. 36/2020, has highlighted the violation of provisions of the 1980 Act by NEC, CIL, by using the forest land for non-forest purpose, violation of the provisions of the environmental laws and also Wildlife (Protection) Act, 1972. Certain irregularities in composition of Standing Committee of the National Board for Wildlife have also been projected in the written response filed. He has also stated about need to

stop the illegal coal mining activities by NEC, CIL, apart from others.

Dr. Kashmira Kakati in response to the request made by the Commission to participate in the inquiry and to submit her inputs on the Terms of Reference notified, sent a mail. She has also sent copies of the application filed in OA 19/2014 filed by her before the Hon'ble National Green Tribunal, orders passed therein and also the Civil Appeal filed by Coal India Limited before the Hon'ble Supreme Court as well as the orders passed therein. In the aforesaid OA filed before the Hon'ble National Green Tribunal, Dr. Kashmira Kakati, Wildlife Biologist has raised the issue of protection of elephant population as well as the apathy of the Govt. to address the conservation issues of elephant reserves /corridors as well as blocking the elephant corridors, discharge of coal mine effluent into the reserve forest, construction of private commercial business in the close proximity to the reserve forest and other activities which destroy the pristine elephant habitat and endanger the contiguous zone for movement of elephants. She has also raised the issue relating to the encroachment and other illegal activities in Dihing Patkai Wildlife Sanctuary, Upper Dihing Reserve Forest disturbing the eco-system.

Sri Sanju Chetri submitted a few documents, which includes the complaint to the Special Vigilance Cell of the Chief Minister, Assam, the Addl. Director General of Police, Bureau of Economics Offence, Addl. Director General of

Police, CID, Assam, CBI, Anti-Corruption Branch, Guwahati and Directorate of Vigilance and Anti-Corruption informing about the ongoing illegal coal mine activities.

The President(I/C) and General Secretary, Assam Jatiyatabadi Yuba Chatra Parishad, Margherita Anchalik Samiti in their written response has demanded scientific mining of coal by NEC, CIL, apart from 100% employment of local un-employed youths as well as stoppage of illegal coal mining activities.

The Vice-President and Publicity Secretary of All Tai Ahom Students' Union, Central Committee in their written response have demanded immediate resumption of mining activities, 100% employment of local un-employed youths and the stoppage of illegal coal mining activities.

The Margherita Senior Citizens Association, North Eastern Coal Fields registered Contractors Association, All Assam Gorkha Student Union (Tinsukia District Committee), Sub-Divisional Coke Coal Association, Margherita Bazar Committee and Assam Tea Tribes Students Association in their written response demanded immediate stoppage of illegal coal mining activities and to identify the persons / organizations involved in such activities. According to them the forest clearance under Section 2 of 1980 Act should be granted to NEC, CIL for Tikok OCP, Tikok Extension OCP and Lekhapani OCP.

Sri Nitu Prasad Sarma and four others have also raised the issue of illegal coal mining and its adverse effect on the environment, apart from encroachment of forest land by some persons/ organizations.

The Divisional President and the Divisional Secretary of Indian National Mine Officials and Supervisory Staff Association in their written response has projected resultant un-employment because of the suspension of the activities by NEC, CIL. According to them NEC, CIL should be allowed to mine legally and the illegal mining activities should be stopped, apart from the destruction of forest.

2.3 The memorialists, thus, have also contended that the coal mining activities in forest land in Saleki PRF, which is part of Dihing-Patkai Elephant Reserve and falls in Eco-Sensitive Zone of Dihing-Patkai Wildlife Sanctuary should not be permitted as it would not only have an adverse impact on the environment but also disturb the ecology as well as destroy the biological diversity of the area and Rain Forest.

2.4 Destruction of forest by illegal coal mining activities and adverse impact on the flora and fauna generally found in and around the forest area in Tinsukia District by the NEC, CIL, as well as by some persons/organizations, which affects the socio-cultural and economic fabric of the area have also been alleged.

2.5 Environmental degradation because of open cast mining in the hills of Patkai Region and in the areas around Saleki PRF, Namdang, Tikok, Ledo, Tirap, Tipong, Lekhapani, Jagun in the district of Tinsukia and to save the said region from environmental disaster have also been pleaded.

2.6 The sum and substance of the contentions of the persons, who have filed their written responses, pursuant to the request made by the Commission, is to stop the illegal coal mining activities in the forest land , not to allow diversion of forest land for non-forest land purpose, more particularly mining, to clear the encroachments in the forest land and also in the elephant corridors, which are leading to man-animal conflict. They have also contended about huge environmental impacts because of the coal mining activities, which are, according to them, carried out by NEC, CIL and other individuals illegally, despite of which the authorities have not taken any steps to stop it.

2.7 Another line of contention in the written responses filed, as noticed above, is to allow the NEC, CIL to restart the mining activities, suspension of which has created un-employment, by granting the approval as required by Section 2 of 1980 Act.

3. Discussions on the Terms of References

3.1 The Commission shall now proceed to answer the Terms of Reference as notified by the Govt. of Assam vide Notification dated 18.07.2020 and published in the Assam Gazette, Extraordinary, on 20.07.2020.

3.2 The **Terms of Reference No. 1 and No. 2**, being to find out as to whether any illegal mining activities have been carried out since 2003 till date, by any organization or individual, in and around Saleki PRF under Digboi Forest Division, including Tikok OCP of NEC, CIL and to identify the organization(s) responsible for such illegal mining activities, both are taken up together for consideration. The Terms and Reference No. 1 and 2 are reproduced below :

- 1 To enquire as to whether since the year 2003 till date, any illegal activities have been undertaken by any organization or individual in and around Saleki Proposed Reserved Forest (PRF) under Digboi Forest Division, including the Tikok Open Cast Project of Coal India Limited (North Eastern Coalfields).**

- 2 To enquire and identify organization(s) responsible for undertaking such illegal mining activities, if any, in and around the aforesaid forest area.

3.3 The aforementioned Terms of Reference relates to illegal mining activities, if any, in and around Saleki PRF, including the Tikok OCP and hence, the Commission is first required to record its finding as to whether there was/is any coal mining activities in the aforementioned areas since the year 2003 and if so, whether such activities are illegal, being contrary to the provisions of applicable laws.

Grant and extension of mining leases

3.4 The right, title and interest of the owners in relation to Bimalpore, Dilli, Jeypore Mines in Jeypore Coalfield; Baragolai, Ledo, Namdang, Tipong Mines in Makum Coalfield and Koilajan, Seelvata Mines in Mikir Coalfield, in the State of Assam, absolutely vest in the Central Government, free from all encumbrances, with effect from the appointed date, i.e. 01.05.1973, by virtue of Section 3 of the 1973 Act. The Govt. of India, Ministry of Steel and Mines (Department of Mines), vide order dated 09.07.1973, issued in exercise of the powers conferred by sub-section (1) of Section 5 of the said Act, directs vesting of the right, title and interest of the

owners in relation to all coal mines referred to in Section 3 of the said Act, except some specified mines, in the Coal Mines Authority Limited, Calcutta, a Govt. Company, incorporated under the Companies Act, 1956, with effect from 09.07.1973. Subsequently, the name of the said Govt. Company was changed to Coal India Limited (CIL) on 21.10.1975, of which NEC (North Eastern Coalfield) is an Unit. Tikok OCP falls in 4 Sq. Mile mining lease and Namdung Coal Grant and situated in Saleki PRF in Digboi Forest Division, in the present Tinsukia District. The said mining leases, though originally were awarded to the AR&TC by the Secretary of the State for India in Council, after promulgation of 1973 Act, fresh mining lease was granted to the CIL for a period of 30(thirty) years with effect from 01.05.1973 to 30.04.2003.

3.5. The DFO, Digboi Forest Division on 10.10.2012, which forms Part II of the proposal No. 393 dated 17.10.2012, submitted seeking prior approval as required under the Forest (Conservation) Act, 1980 (in short 1980 Act), for diversion of 98.59 Ha forest land for non-forest purpose i.e to carry on the coal mining activities, has also accepted that the aforementioned forest land is well inside the Saleki PRF and is a part of Dihing Patkai Elephant Reserve. The DFO, Digboi Forest Division had recommended acceptance of the proposal of the NEC, CIL for diversion of the aforesaid forest land for non-forest purpose after obtaining clearance from the PCCF(WL) as area proposed is

falling under Dihing Patkai Elephant Reserve. The Conservator of Forests, Eastern Assam Circle, Jorhat, has on 12.10.2012 submitted the Part III of the said proposal, agreeing to the recommendation of the DFO, Digboi Forest Division. The said proposal was also accepted by the Nodal Officer of PCCF and HoFF, Govt. of Assam on 26.11.2012 and ultimately recommended by the Secretary, Environment and Forest Department, Govt. of Assam on 05.02.2013.

Copies of the recommendation of the DFO, Conservator of Forest, Nodal Officer and the Secretary, Environment and Forest, Govt. of Assam, dated 10.10.2012, 12.10.2012, 26.11.2012 and 05.02.2013, respectively are made part of this Report as **Annexure 10** collectively in **Volume-II**.

3.6 Neither the NEC, CIL nor the Environment and Forest Department or the Mines and Minerals Department of Govt. of Assam, despite the direction issued by the Commission, produced the said mining leases or copies thereof. The Director, Ministry of Energy, Department of Coal, Govt. of India, however, vide communication dated 10.09.1990 informed the Chief General Manager(Legal), CIL that there is no need to enter into an agreement for a mining lease with the State Govt. in Form-K of the Minerals Concession Rules, 1960 (in short 1960 Rules), as the State Govt. has already agreed that by virtue of 1973 Act no such lease is required to be executed.

3.7 The Commission, however, is not entering into the question of the requirement of executing the lease

agreement in Form-K under 1960 Rules, as the Commission is required to answer the Terms of Reference No. 1 & 2, which relate to the period from 2003 onwards, i.e, after expiry of the thirty years lease granted in favour of the CIL, in terms of the 1973 Act.

3.8 The period of thirty years lease, having coming to an end on 30.04.2003, an application dated 17.07.2002 was filed by the NEC, CIL, under the 1960 Rules, before the Director, Directorate of Geology and Mining, which was received by the Mining Engineer of the said Directorate, for renewal of the following nine mining leases. The area of the mining leases have also been shown in the said application :-

Sl. No.	Name of Mining Lease	Area
1	4 sq.mile Mining Lease (Ledo, Baragolai M.L.)	1034.34 Hectares
2	4.48 sq. mile Mining Lease (Lekhapani, Tipongpani M.L.)	1158.46 Hectares
3	Jeypore (3.35 sq.mile)	866.26 Hectares
4	Dilli Lease I & II	1036.40 Hectares
5	Tirap Coal Grant (588 Acres)	238.00 Hectares
6	Namdang Coal Grant (387 Acres).	156.36 Hectares
7	Bimalapore Lease I & II	750.00 Hectares
8	Sheelvata Lease (624 Acres)	253.00 Hectares.
9	Koilajan Lease (1684.29 Acres).	681.00 Hectares.

A copy of the forwarding letter dated 17.07.2002, issued by NEC, CIL to the Director, Directorate of Geology and Mining, Govt. of Assam, is made part of this Report as **Annexure 11 in Volume II.**

3.9 4 Sq. Miles mining lease having total area of 1034.34 Ha; 4.48 Sq. Mile mining lease having the total area of 1158.46 Ha; Tirap Coal Grant with the lease area of 238 Ha; Jeypore Mining lease with the mining lease area of 866.26 Ha, were renewed by Mines and Minerals Department, Govt. of Assam vide notifications issued on 22.07.2019 and 06.12.2019, for a period of twenty years i.e w.e.f 09.07.2003 to 08.07.2023. The period of lease of Ledo OCP for the area of 101 Ha was renewed by Mines and Minerals Department of Govt. of Assam on 23.09.2008 till 20.03.2029. There was no renewal of the other leases, after expiry of the thirty years lease granted under the provisions of the 1973 Act.

Copies of the aforesaid orders dated 23.09.2008, 22.07.2019(three in numbers.) and 06.12.2019 issued by the Govt. of Assam, Mines and Minerals Department extending the period of the aforementioned coal mining leases for twenty years are made part of this Report as **Annexures 12, 13, 14, 15 and 16**, respectively **in Volume II.**

Validity of the un-registered lease deeds under the Mines and Minerals (Development and Regulation) Act, 1957 (in short MMDR Act)

3.10 The MMDR Act imposes general restrictions on undertaking, prospecting and mining operations without obtaining licence or lease, as provided in Section 4 thereof. Sub Section (3) of Section 4 empowers the State Govt., after

prior consultation with the Central Govt. and in accordance with the rules made under Section 18, to undertake reconnaissance, prospecting or mining operations with respect to any mineral, specified in the First Schedule in any area within the State. Coal and lignite are specified as hydrocarbons/ energy minerals in Part-A of the First Schedule. Section 13 of the said Act is the rule making power of the Central Govt., in exercise of which the 1960 Rules were framed. Chapter IV of the said Rules lays down the manner of filing the application for grant of mining lease and the renewal thereof. Rule 31 provides for execution of a lease deed in Form-K or in a form as near thereto as circumstances of each case may require, within six months of the order or within such further period as the State Govt. may allow in this behalf. If no such lease deed is executed within the said period due to any default on the part of the applicant, the State Govt. has the power to revoke the order granting the lease and in that event, the application fee shall be forfeited to the State Govt. Sub Rule 2 of Rule 31 of the said Rule specifies that the date of commencement of the period for which a mining lease is granted, shall be the date on which a duly executed deed under Sub Rule (1) is registered.

3.11 Section 17 of the Registration Act, 1908, specifies the documents which are compulsorily registerable under the said Act, which includes leases of immovable property from year to year, or for any term exceeding one

year, or reserving a yearly rent. Section 49 of the said Act provides the effect of non-registration of documents which are compulsorily registerable. It specifies that such document, if not registered, shall not have any effect on any immovable property comprised therein.

3.12 It is evident from the deposition of the Director, Directorate of Geology and Mining, Govt. of Assam that the lease deeds, pursuant to the aforementioned orders dated 22.07.2019 and 06.12.2019 extending the period of lease of aforementioned four coal mining leases in favour of NEC, CIL were executed on 27.01.2021, between the State Govt., represented by the Director, Geology and Mining and the NEC, CIL. Those lease deeds have not been registered, till the date of his deposition, as required by the Registration Act of 1908. The lease deed between the State Govt. represented by the Director Geology and Mining and the NEC, CIL, in respect of Ledo OCP was executed on 21.03.2009, after the renewal granted by the Govt. of Assam on 23.09.2008. The Director in his deposition has also admitted that the said lease deed has also not been registered, as required by the Registration Act, 1908.

3.13 As discussed above, though the Govt. of Assam, Mines and Minerals Deptt by the aforementioned orders dated 22.07.2019 and 06.12.2019 extended the period of lease from 09.07.2003 to 08.07.2023, such retrospective

renewal of lease is not permissible in view of the provisions contained in Sub Rule (2) of Rule 31 of 1960 Rules, which provides for commencement of period of the mining lease with effect from the date on which a duly executed lease is registered. Similarly, the lease deed, in respect of Ledo OCP, executed on 21.03.2009, has also not been registered under the Registration Act, 1908. The aforesaid lease agreements having not been registered as yet, the period of such lease cannot commence prior to the date of registration under the said Act. Consequently the NEC, CIL do not have any lease in respect of the aforementioned mines with effect from the date of expiry of the thirty years lease granted after coming into force 1973 Act, i.e from the year 2003 till date.

3.14 Section 4 of the MMDR Act having imposed the restrictions on carrying out any mining operation in any area without obtaining a lease from the competent authority, the NEC, CIL could not have carried out any mining operation in the aforementioned mines, which includes the Tikok OCP in Saleki PRF. Such mining activities on the part of the NEC, CIL are, therefore, illegal, being not permissible under the provisions of MMDR Act.

3.15 The contention of the NEC, CIL, as projected in the written statement filed, that in view of the communication dated 10.08.2004 issued by the Govt. of India, Ministry of Coal and Mines, Department of Coal, the period of lease of

the aforesaid coal mines deemed to have been extended, cannot be accepted in law as well as on facts. By the said communication dated 10.08.2004, the CIL was informed about the decision taken to consider the request of the coal companies to authorize working of mines for a further period of thirty years beyond the lease period, for which the coal companies were requested to submit their proposals with details of the area whose leases have expired. In no stretch of imagination, it can be said that by the said communication dated 10.08.2004, the period of the expired leases has been extended or deemed to have been extended. No order of granting lease for a further period, after expiry of the earlier period, was passed. The Central Govt. also did not pass any order in exercise of the power of relaxation conferred by Section 31 of the MMDR Act, which empowers the Central Govt. to pass an order in writing, in the interest of mineral development, authorizing grant, renewal or transfer of any permit, licence or mining lease or the working of any mine, for the purpose of searching for or winning any mineral, on terms and conditions different from those laid down in the Rules made under Section 13.

3.16 The Standing Committee of National Board for Wildlife in its 59th meeting held on 05.10.2020 decided to send two members fact finding team comprising of an official each from the MoEF and CC, Govt. of India and the Forest Department of Assam to submit a factual report. The Two

Membered Committee consisting of the Deputy Director General of Forests (Central), IRO, Shillong, MoEF and CC, Govt. of India and the Nodal Officer (FC Act) Assam Forest Department, Govt. of Assam, has thereafter been constituted, who on the basis of site visit conducted from 10.02.2021 to 12.02.2021, submitted the report, which was placed in the 61st meeting of the Standing Committee of the National Board for Wildlife, held on 18.02.2021, decision on which, however was deferred as the same requires further examination. The said report, therefore, has not even been accepted till date.

3.17 In the said report though it has been observed that the lease in favour of the aforementioned mines became automatically validated up to 01.02.2033, the said observation of the said committee is not acceptable in law as well as in facts, for the simple reason that the Central Govt. did not exercised the power conferred under Section 31 of the MMDR Act. That apart, had the mining leases already been extended till 01.02.2033, there would not have any occasion on the part of the NEC, CIL to apply for renewal of lease to the Mines and Minerals Department, Govt. of Assam and the subsequent orders passed by the said department of Govt. of Assam extending the mining lease for twenty years i.e till 2023. The Commission, however, has found that the said extensions of the mining leases have not come into effect till date, as the lease agreements executed thereafter have not been registered as required under the Indian

Registration Act, 1908. The Commission fails to understand how the Nodal Officer (FC), State Forest Department of Assam as well as the Deputy Director General of Forest(Central) could record such a finding, which has no factual basis. These activities on the part of few officers create serious doubt about their intention to stop the illegal coal mining activities.

A copy of the said undated report submitted by the Two Member Committee consisting of Deputy Director General of Forests (Central) IRO, Shillong, MoEF & CC, Govt. of India and the Nodal Officer, FC Act, State Forest Department, Govt. of Assam, on the basis the site visit conducted from 10.02.2021 to 12.02.2021 is made part of this Report as **Annexure 17** in **Volume-II**.

Non-Compliance of the provisions of the Forest (Conservation) Act, 1980

3.18 The Commission shall now proceed to consider the question as to whether the NEC, CIL has breached the provisions of the 1980 Act. The General Manager of NEC, CIL in his deposition has admitted that Tikok OCP comprises 98.59 Ha of forest land. Out of the said forest land, according to the NEC, CIL, 57.20 Ha has already been broken, i.e used for non-forest purpose. The DFO, Digboi Forest Division in his deposition, however, has stated that out of 98.59 Ha of forest land, the NEC, CIL has already broken 73.2 Ha coal mining activities, i.e used for non-forest purpose.

3.19 Section 2 of 1980 Act, imposes restriction on the de-reservation of forests or use of forest land for non-forest purpose, except with the prior approval of the Central Govt. For the purpose of the de-reservation of reserve forest or any portion thereof as well as for use of any 'forest land' or any portion thereof for any non-forest purpose, apart from others, the prior approval of the Central Govt. therefore is a condition precedent. The term 'non-forest purpose' has been defined as breaking up or clearing of any forest land or portion thereof for (a) the cultivation of tea, coffee, spices, rubber, palms, oil bearing plants, horticulture crops or medicinal plants; (b) any purpose other than afforestation. The term 'non-forest purpose', however, does not include any work relating or ancillary to conservation, development and management of forest and wildlife, namely, the establishment of check-post, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, water holes, trench marks, boundary marks, pipe lines or other like purposes.

3.20 The Forest(Conservation) Rules, 2003 (in short 2003 Rules), framed in exercise of the powers conferred by Sub-Section (1) of Section 4 of 1980 Act, provides for composition of Advisory Committee, regional empower committee, conduct of business of the committee, manner of submission of proposal seeking approval of the Central Govt. under Section 2 of 1980 Act. etc., the details of which shall be discussed in the later part of this report.

3.21 The Hon'ble Supreme Court in **T.N. Godavarman Thirumulkpad –Vs- Union of India and Ors.**, reported in **(1997) 2 SCC 267**, vide Order dated 12.12.1996 has interpreted the term "forest land", occurring in Section 2 of 1980 Act. It has been held that the term "forest land" will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Govt. record irrespective of the ownership. It has further been held that the provisions enacted in the 1980 Act for the conversion of forests and matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. A number of directions have thereafter been issued by the Hon'ble Supreme Court, which would also be discussed in the later part of this Report.

3.22 The proposal seeking approval under Section 2 of the 1980 Act for renewal of three mining leases, namely, 4 Sq. mile mining lease (1034.34 Ha); Namdung Coal Grant Lease (Baragolai = 156.36 Ha) and Tirap Coal Grant Lease (Tirap OCP = 238.00 Ha) was also submitted by the NEC CIL vide their application dated 28.11.2003 filed before the DFO, Digboi Forest Division. In the said proposal the NEC, CIL has requested grant of approval under Section 2 of 1980 Act for conversion of 1034.34 Ha, 156.36 Ha and 238.00 Ha of forest land, totaling 1428.70 Ha, within 4 Sq. Mile mining lease, Namdung mining lease and Tirap mining Lease, respectively,

all are in Digboi Forest Division. In the said proposal it has been admitted that certain land, as mentioned below, in respect of 4 Sq. Mile mining lease, Namdung Coal Grant Lease and Tirap Coal Grant Lease, has already been broken, i.e, used for non-forest purpose. The relevant portion of the said proposal submitted by the NEC, CIL on 28.11.2003 is reproduced below:-

Fig. in Hect.

Sl No.	Name of Mine	Existing(Already broken)	Proposed (to be broken)
(A) 4 Sq. Mile Mining Lease			
(a)	Bargolai Underground	0.90	0.70
(b)	Ledo Underground	6.20	NIL
(c)	Tikok Open Cast Mine	79.00	9.50
(d)	Tirap Open Cast Mine	12.00	NIL
(e)	Lachit Khanti Open Cast Mine	NIL	95.00
	Total	98.10	105.20
(B) Namdung Coal Grant Lease			
(a)	Boragolai underground	1.40	1.90
(b)	Extension of Tikok Open Cast Mine	NIL	11.50
	Total	1.40	13.40
(C) Tirap Coal Grant Lease			
(a)	Tirap Open Cast Mine	143.50	15.50

3.23 It is evident from the above, that even before submitting the proposal seeking the prior approval under Section 2 of 1980 Act, the forest land has been broken by NEC, CIL, while carrying on the mining activities in respect of Tikok OCP also, which is part of the 4 Sq. Mile Mining Lease.

3.24 In the site inspection report submitted by the DFO, Digboi Forest Division, on the basis of the inspection conducted on 31.08.2004, conversion of the forest land for non-forest purpose by NEC, CIL in respect of 4 Sq. Mile mining lease, which comprises Tikok OCP, has also been noticed.

3.25 The Addl PCCF(C), Ministry of Environment and Forest, Govt. of India, also conducted site inspection on 04.07.2012 and 05.07.2012 in respect of the proposed use of forest land for non-forest purpose for Lekhapani OCP. Based on the said site inspection, report dated 23.07.2012 was submitted to the Inspector General of Forests(FC), Ministry of Environment and Forest. Govt. of India, observing violation of the provision of the 1980 Act by NEC, CIL in respect of Tikok OCP, for which directions stated to have already been issued to the Govt. of Assam to stop such illegal activities. In the said report it has also been stated that the Ledo Under Ground mine, comprising 265.63 ha, is fully over the forest land, so also the Tikok OCP. Part of the land in Tipong Under

Ground mine, Borgolai Under Ground mine and Tirap Under Ground mine were found to be forest land.

A copy of the said communication dated 23.07.2012 and the even dated report are made part of this Report as **Annexure-18** in **Volume-II**

3.26 The Addl. PCCF(C), Ministry of Environment and Forest, Govt. of India, North Eastern Regional Office, Shillong vide their communication dated 20.07.2012 also informed the Principal Secretary to the Govt. of Assam, Environment and Forest Department as well as PCCF & HoFF, Govt. of Assam about the continued violation of the 1980 Act by NEC, CIL by operating the Tikok OCP and advised to stop all non-forestry activities on the forest land. It appears from the deposition of the General Manager, NEC, CIL that the operation of Tikok OCP was temporarily stopped. The operation however, recommenced, which is evident from the coal production figure furnished by the General Manager during recording his deposition.

A copy of the said communication dated 20.07.2012 issued by the Addl. PCCF(C), MoEF & CC, Govt. of India is made part of this Report as **Annexure 19 in Volume-II.**

3.27 The Chief General Manager of NEC, CIL submitted another proposal on 27.08.2012, in Form-A, for Tikok OCP, under Section 2 of the 1980 Act and Rule 6 of the 2003 Rules, seeking prior approval from the Central Govt. The said proposal was submitted for conversion of 98.59 Ha forest land for non-forest purpose. In the said proposal also

the NEC, CIL has admitted breaking up of at least 44.27 ha of forest land as under :

Area already broken up to 2003	Area broken from 2003 to 2012	Area to be broken from 2012 to 2022	Total
12.93	44.27	41.39	98.59

3.28 Despite conversion of the forest land for non-forest purpose, the recommendation for granting the approval for conversion of 98.59 Ha of forest land for Tikok OCP in Saleki PRF was made by the State Govt. The Govt. of India, Ministry of Environment, Forest and Climate Change on the basis of such recommendation and also the recommendation of the Forest Advisory Committee granted the in-principle approval / stage-I clearance for diversion of the said forest land by NEC, CIL, subject to the conditions stipulated therein. The State Govt. was also directed to undertake conduct of certain studies and to submit the reports to the Ministry prior to the stage-II approval. The violation of the provisions of the 1980 Act, is writ large on the said stage-I clearance granted by the Govt. of India.

A copy of the in principle approval/stage-I clearance granted by the Central Govt. on 26.12.2019 for diversion of 98.59 Ha of forest land for Tikok OCP in Saleki PRF by NEC, CIL is made part of this Report as **Annexure-20 in Volume-II**.

3.29 From the aforesaid discussion, it, therefore, transpires that no forest land can be used for non-forest

purpose without obtaining prior approval (emphasis added) of the Central Govt. The NEC, CIL, even before submitting the proposal dated 28.11.2003 seeking approval as required under Section 2 of 1980 Act, converted part of the forest land for non-forest purposes, in 4 Sq. Mile mining lease, Namdung Coal Grant Lease and Tirap Coal Grant Lease. NEC, CIL, therefore, has violated the mandatory provisions of the 1980 Act, in not obtaining the prior approval for use of the forest land for non-forest purpose. Sections 3A and 3B of the 1980 Act, provide the penalty for contravention of the provisions of the said Act, as well as by the authorities and the Govt. departments.

Violation of the provision of Assam Forest Regulation, 1891


3.30 The Govt. of Assam, in exercise of the power conferred by Clause 5 of the Assam Forest Regulation 1891 (in short 1891 Regulation) issued notification dated 07.06.1976, which was published in Assam Gazette on 23.06.1976, proposing constitution of the land mentioned in the schedule thereto a Reserve Forest, which is known as Saleki PRF. The Commission has also been informed that the proclamation, as required under Clause 6 of the Regulation, has been made. Clause 7 bars accrual of forest rights after such proclamation is issued. For better appreciation Clause 7 of the said Regulation is reproduced below :

"7. Bar of accrual of forest rights after proclamation. (1) *During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as hereinafter provided, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into, by or on behalf of, the Government or some person in whom such right or power to create such right was vested when the proclamation was published; and on such land no new house shall be built or plantation formed, no fresh clearings for cultivation or for any other purpose of trade or manufacture except as hereinafter provided.* (2) *Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest Settlement Officer, or any clearings lawfully made for jhum cultivation by persons in the habit of practicing such cultivation on such land."*

3.31 The Tikok OCP admittedly is in Saleki PRF. The said PRF having been notified during the continuance of the thirty years lease granted by the Govt. of India in favour of the NEC, CIL, after coming into force the 1973 Act, the NEC, CIL cannot claim any right of mining over the land after expiry of the thirty years lease, unless prior approval, as required under Section 2 of 1980 Act is obtained and the

lease, as required under Section 4 of the MMDR Act read with the provisions of 1960 Rules, is executed and registered. The Commission in the foregoing paragraphs has already held that no approval, not to speak of prior approval, has been obtained by NEC, CIL, as required under 1980 Act and no lease, as required under the MMDR Act, exist, in respect of the Tikok OCP, which falls within 4 Sq. Mile mining lease and Namdung Coal Grant. Hence, the operation of Tikok OCP in Saleki PRF, without the required approval and the lease, contravenes the provisions of 1891 Regulation.

3.32 The DFO, Digboi Forest Division in his written response dated 22.10.2020 sent to this Commission, has stated about violation of the provisions of 1891 Regulation by the NEC, CIL, for which offence report against the General Manager, NEC, CIL and others stated to have been filed in the Court of the learned Sub-Divisional Judicial Magistrate, Margherita by the DFO, Digboi on 03.12.2019. The learned Court has taken cognizance of the offence report and registered CR Case No. 38/2019 under "Sections 34/35/40/41/49" of 1891 Regulation thus the proceeding has been initiated. Clause 3(4) of the said Regulation defines "forest produce", which is an inclusive definition. The Commission, in view of pendency of the said proceeding before the learned Court, is not commenting anything in that regard.



Violation of Environmental laws


Requirement of obtaining CTE and CTO

3.33 The Air (Prevention and Control of Pollution) Act, 1981 (in short Air Act) and the Water (Prevention and Control of Pollution) Act, 1974 (in short the Water Act) require obtaining Consent to Establish (CTE) and Consent to Operate (CTO) by any industry. Violation of the provisions of the said Acts invites penal actions. For operating the coal mining activities by NEC, CIL, CTE, is not required to be obtained, such activity having commenced much prior to coming into force the Air Act and the Water Act. Year-wise CTO under the both Acts, however, are necessary, the coal industry being in the red zone.

3.34 The Member Secretary (i/c), Pollution Control Board, Assam, in the written response filed on 07.12.2020 has stated about issuance of CTO to the CIL in respect of Tikok Colliery from 2003-04 to March, 2017 and again from 2017 to 31.03.2019, except for the period from 2006-07, 2007-08, 2008-09 and 2009-10 due to non-payment of the required fee. The fact remains that the Tikok OCP was operated by NEC, CIL without having the CTO for the years 2006-07 to 2009-10. The NEC, CIL, thus, has also violated the provisions of the Air Act and the Water Act, which invites penal action under the aforesaid Acts.

3.35 The Commission during the field visit conducted noticed dumping of overburdens near Tikok OCP which itself creates a hill. Such dumping of over-burdens definitely has caused damage to the vegetation, which in turn caused extensive damage to the environment. The Commission also noticed natural combustion of gaseous substance releasing very strong odours of chemical, collection of water in the mine, which appeared to be yellowish in color, apart from a rat-hole mine within the Tikok OCP. The Commission also noticed overburden, creating hills on both sides of the pit of Tikok OCP, which is about 800 Meters in length, 300 Meters in breadth and 80 Meters in depth. During the site visit of Tirap OCP, the Commission also noticed a huge pit which is about 1.4 KM in length, 300 Meter in breadth and 160 Meters in depth. Huge dumps of overburden by the side of the project area, without any vegetation could also be seen. The water collected at the bottom of the mine is greenish yellow in color. The aforesaid observation by the Commission during the field visit indicate pollution of the environment because of the open cast mining by NEC, CIL.

Figure 4 to 13 are the relevant photographs of Tikok and Tirap OCP.



Tikok OCP*Fig. 4**Fig. 5*



Fig. 6



Fig. 7



Fig. 8

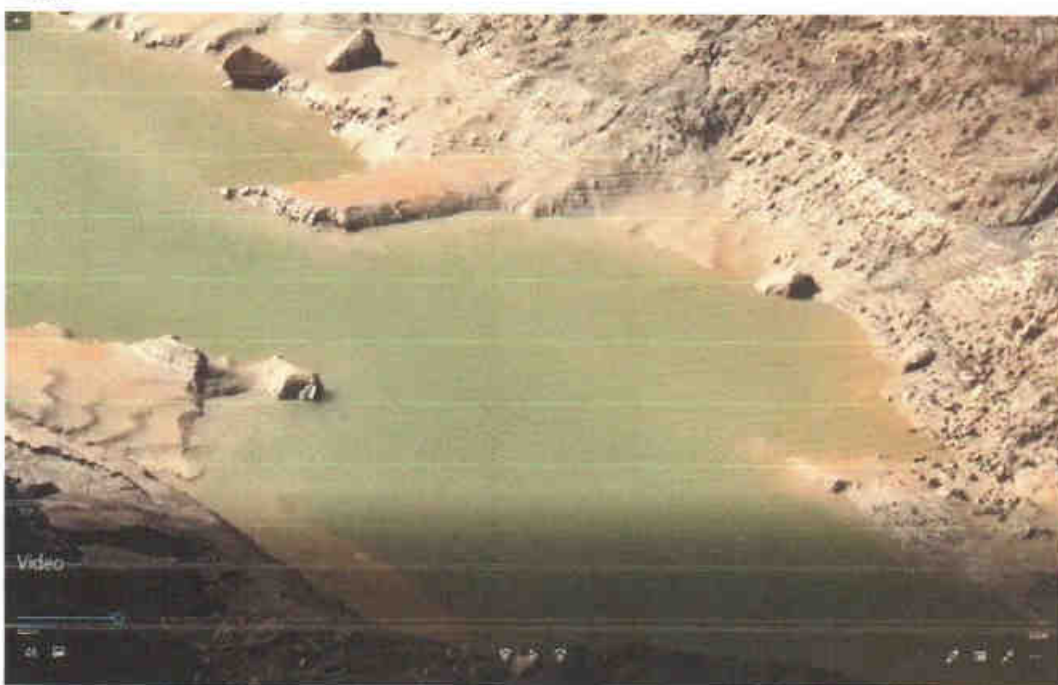


Fig. 9



Fig. 10



Fig. 11

Tirap OCP



Fig. 12



Fig. 13

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Requirement of having the Environmental Clearance (EC) from the Ministry of Environment and Forest and Climate Change (MoEF & CC) Govt. of India

3.36 EIA Notification of the MoEF & CC No. SO 1533 (E) Dated 14.09.2006 was issued by the Central Government in exercise of the power conferred by sub section (1) and clause (v) of the sub section (2) of section 3 of the 1986 Act read with clause (d) of the Sub-Rule (3) of Rule 5 of Environment (Protection) Rules, 1986 and in suppression of the Notification No. SO.60 (E) dated 27.01.1994. The Notification lays down the provision to be followed in grant of prior environment clearance. The Notification has a detailed schedule which classified projects in categories "A", B1 & B2. The A Category projects require prior EC for which only the Central Government is empowered to issue; and for B category projects the authority of issuance of prior EC is vested with the State EIA Authority.

3.37 As per the Environment Clearance (EC) notification of Govt. of India No. SO. 1533 (E), Dtd. 14.09.2006, mining activity falls under Sl. 1 (a). "Mining of minerals" is in Category "A" for areas greater than or equal to 50 Ha. of mining lease area. For areas falling within Boundary of Protected Areas, National Park and Wildlife Sanctuary, is to be treated as Category "A" Project as well. All Category "A" projects require public hearing and prior Environmental Clearance. Further, as per the direction of Hon'ble Supreme

Court vide order dated 04.12.2006 passed in WP (C) – 460/2004 (Goa Foundation –Vs- Union of India), direction was issued that *“MoEF would also refer to the Standing Committee of the NBWL under section 5 (b) & 5 (c) (ii) of the WLPA, 1972. The cases where Environment Clearance has already been granted where activities are within 10 Kms zone”*, the duties and responsibilities of Nation Board for Wild Life, *“carrying out or causing to be carried out impact assessment of various project and activities on wildlife or its habitat”*. It is, therefore, imperative for all “A” Category projects to have prior concurrence of the National Board for Wildlife.

3.38 The aforesaid notification No. SO.1533(E) dated 14.09.2006 issued by the MoEF & CC, Govt. of India also requires obtaining Environment Clearance (EC) from the MoEF & CC, Govt. of India. No record has been placed before the Commission about obtaining such EC by the NEC, CIL, after issuance of the said notification on 14.09.2006.

Rat-hole Mining in and around the mines operated by NEC, CIL

3.39 As discussed above, the Commission during the field visit has noticed atleast one rat-hole mine and also dump of freshly mined coal in Tikok OCP, which was operated by NEC, CIL till 24.10.2019 and are still in possession of the NEC, CIL.

Figure 14 and Figure 15 are the rat-hole mine and the freshly mined coal dump found in Tikok OCP by the Commission during the field visit.



Fig. 14



Fig. 15

3.40 The Commission during the site visit conducted on 25.12.2020 also visited the forest area adjacent to Namdung Colliery, which is in Saleki PRF. The Commission noticed huge dumps of coal in that area. On being asked, the forest officials present during the field visit, informed the Commission that collection of coal mostly from the rat-hole mines within the Saleki PRF. The Commission also noticed two rat-hole mines in that area.

Figure 16 and **17** are the photographs of the rat-hole mines and coal dumps taken during the field visit.



Fig. 16



Fig. 17

3.41 Presence of dumps of freshly mined coal have also been noticed by the Commission during its field visit to Bomgora area, which is also in Saleki PRF. Such coal dumps are found in almost all the houses of the inhabitant of that locality. The Commission, however, did not notice any rat-hole mine. On being questioned about the source of collection of coal, the Commission has been informed that mining activities are going on in Phemru-I and Phemru-II areas on Assam side near the border of the State of Arunachal Pradesh.

Figure 18 to 22 are the photographs of the coal dumps found in Bomgora area during the field visit.



Fig. 18



Fig. 19

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*Fig. 20**Fig. 21*



Fig. 22

3.42 During the field visit conducted on 08.03.2021 to Namphai Reserve Forest and Joyarampore area in Tingkapani Reserve Forest, the DFO, Digboi Forest Division has apprised the Commission about illegal coal mining activities, by open cast mining process, 1-2 years back within Tingkapani Reserve Forest, which is about 2 ½ KM away from the motorable road. The Commission could not visit the said area as it has been advised against it due to security reasons. The Commission, therefore, directed the DFO, Digboi Forest Division to take the photographs of that area and accordingly the same were taken and sent to the Commission.

Figures 23 to 30 are the photographs of the said area, where mining activities took place in recent past inside Tingkapani RF.



Fig.23



Fig. 24

✓



Fig. 25



Fig. 26





Fig. 27



Fig. 28

✓



Fig. 29



Fig. 30

3.43 Sri Lakhya Jyoti Gogoi, Vice-President of the Central Committee of Chatra Mukti Sangram Samitee, Assam, apart from recording his oral statement on 26.12.2020, stating inter-alia about the illegal mining activities has also

produced a number of documents including the communication dated 25.08.2017 issued by the General Manager, NEC, CIL informing the Deputy Commissioner, Tinsukia District about the illegal coal mining by rat-hole mining and requesting to take appropriate action to stop such illegal rat-hole mining activities, except registering the FIR lodged, the Commission has not been intimated about taking any serious action on the said communication dated 25.08.2017. Copies of the said communication were also marked to the SP, Tinsukia, SDO(Civil) and SDPO, Margherita.

A copy of the said communication dated 25.08.2017 issued by the General Manager, NEC, CIL to the Deputy Commissioner, Tinsukia is made part of this Report as **Annexure 21** in **Volume-II**.

3.44 The factum of illegal coal mining has also been admitted by the Environment and Forest Department, Govt. of Assam and the PCCF & HoFF, Assam, which is evident from the preliminary report submitted by the Chief Conservator of Forest and Nodal Officer (F.C.Act) Assam on 04.03.2021, filed before the Commission, based on Satellite Imagery Based Study of coal mining in and around Saleki PRF, prepared by the office of the PCCF & HoFF, Assam, stating therein astronomical increase of rat-hole mining after the year 2015. The said report would be discussed, in details, in the later part of this Report.

3.45 The Minister of State, Ministry of Environment, Forest and Climate Change, Govt. of India in answer dated

22.11.2019 to the Lok Sabha unstarred question No. 1150 has also admitted the illegal coal mining in Namphai RF, Tingkopani RF, Tipong RF, Tirap RF, Lekhapani RF, Tipong PRF, Tirap PRF and Saleki PRF.

The aforementioned unstarred question No. 1150 and the answer given by the Minister of State in the Ministry of Environment, Forest and Climate Change, as available in public domain, are as follows :-

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE

LOK SABHA
UNSTARRED QUESTION NO. 1150
TO BE ANSWERED ON 22.11.2019

Bio-diversity Hotspots

1150. SHRI PRADYUT BORDOLOI:

Will the Minister of ENVIRONMENT, FOREST AND CLIMATE CHANGE be pleased to state:

- (a) whether very rich bio-diversity Hotspots exist in the Tinsukia, Assam under Digboi forest division in its Reserved Forests and Dehing Patkai wildlife sanctuary, if so, the details thereof;
- (b) whether as many as 17 notified Reserved Forests and more than eight Proposed Reserved Forests besides the Dehing Patkai Wildlife Sanctuary fall under Digboi forest division, if so, the details thereof;
- (c) whether the Government is aware that an organized coal mafia with the criminal connivance of certain forest officials and local administration has been carrying on deforestation and wide scale "Rat Hole" coal mining activities with the mechanized equipment inside the reserved forest for more than three years now, if so, the details thereof; and
- (d) whether the Government proposes to conduct an urgent inquiry and depute a fact finding team to these affected areas in Tinsukia to protect and restore the bio-diversity hotspots and if so, the details thereof?

ANSWER

**MINISTER OF STATE IN THE MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
(SHRI BABUL SUPRIYO)**

- (a) Yes Sir. As per the information received from Government of Assam, Dehing Patkai Wildlife Sanctuary in Digboi and Dibrugarh Forest Division, which is classified as "Assam Valley Tropical Wet Evergreen Forest" was notified on 13th June 2004. It is home to faunal species like elephant, Tiger, Hoolock Gibbon, Slow Loris, Chinese Pangolin leopard, reptiles, beetles, butterflies, moths, lesser cats, hornbill etc. The floral species present in the region include Hollong, Mekai, Nahar, Keteki, Togor, Champa, Ajar Tree, Orchids, Ferns etc.

- (b) As per the information received from Government of Assam, there are 15 Reserve Forests (RF) and 6 Proposed Reserve Forests (PRF) in the Digboi Division. On 13th June 2004 the Government of Assam has declared an area of 111.9 Sq. km forest area as the 'Dehing Patkai Sanctuary' of which 2/3rd area falls in Digboi Division and 1/3rd fall in Dibrugarh Division. The details of RF/PRF in Digboi Forest Division are as below:

Reserve Forest under Digboi Forest Division

Sl. No.	Name of the Reserve Forest	Area of Reserve Forest(in Ha.)
1.	Upper Dehing Reserve Forest (East Block) + 1 st Addition	13173.82
2.	Digboi Reserve Forest (East Block)	70.2
3.	Tirap Reserve Forest	1455.6
4.	Namphai Reserve Forest + 1 st Addition	2117.41
5.	Tipong Reserve Forest	445.34
6.	Lekhapani Reserve Forest	1396.76
7.	Paharpur Reserve Forest	166
8.	Upper Dehing Reserve Forest (West Block)	27485.06
9.	Bogapani Reserve Forest	97.17
10.	Digboi Reserve Forest (WB)	972.47
11.	Dirak Reserve Forest	3042.51
12.	Tinkopani Reserve Forest	3033.6
13.	Kotha Reserve Forest	1133.6
14.	Mkumpani Reserve Forest	485
15.	1 st Addition to Dirak Reserve Forest	676.14

Proposed Reserve Forest under Digboi Forest Division

Sl. No.	Name of Reserve Forest	Area of Reserve Forest(in Ha.)
1.	Saleki PRF	2940.00
2.	1 st Additional to Tirap PRF	3025.00
3.	1 st Additional to Tipong PRF	2020.00
4.	Dalai PRF	244.15
5.	Deosali PRF	220.00
6.	1 st Additional to Makumpani PRF	55.00

- (c) Yes, the Government of Assam informed that the State Government is aware of illegal coal mining in forest areas of Digboi Division namely, Compartment No. 2 of Nampai Reserve Forest (RF), Tinkapani RF, Tipong RF/PRF, Tirap RF/PRF, Lekhpani RF and Saleki PRF. Connivance of forest officials in illegal coal mining has not been reported. However, action has been initiated against certain forest officials of Digboi Division for dereliction of duty. The details of areas where illegal coal mining was detected by forest officials in the recent past during combing operations are given below:

Sl. No.	Combed up area of RF/PRF	Area of the RF/PRF	Illegal mining in Hact
1.	Tirap PRF	3025	40.47
2.	Tipong PRF	2020	70.20
3.	Tipong RF	445.340	18.70

Government of Assam has informed that the Rat Holes, which were dug, were filled up and planting of seedlings was carried out.

- (d) As per the information received from Government of Assam, the State Forest Department conducts field inspection/enquiry from time to time to check all kinds of illegalities in forest areas including illegal coal mining and the reports are submitted to the concerned authorities and the State Government for requisite action. Further, the following measures are taken up by the Assam Forest Department to prevent illegal Coal Mining:

- i. Seizure of coal, vehicles and Machineries and apprehending offenders indulging in illegal Coal Mining.
- ii. Deployment of armed personnel of Assam Forest Protection Force in the affected Forest Divisions.
- iii. Coordinated efforts involving the line departments of the Government/ concerned agencies such as Police, Civil Administration etc. being made.

...

3.46 From the aforesaid discussion, it is, therefore, evident that apart from mining coal by NEC, CIL, some individual/ organizations have also indulged in mining of coal by means of rat-hole/open cast mining. The mining of coal by NEC, CIL, from the year 2003 onwards, for the reasons recorded above, is found to be illegal, being contrary to the provision of the MMDR Act, the 1980 Act and the 1891 Regulation. The Commission has also recorded the finding

about violation of the Air Act and Water Act by the NEC, CIL. Mining of coal by other individual / organization by adopting the rat-hole as well as open cast mining methods is also illegal, in view of the provisions contained in the MMDR Act, the 1980 Act and the 1891 Regulation. It is an admitted position of fact that no lease has been granted by the State Govt. to anyone, other than NEC, CIL, which was also found to be not valid. The rat-hole/open cast mining and extraction of coal are, therefore, illegal. The Commission, however, is unable to identify the individual/organizations responsible for undertaking such illegal mining activities in and around the Saleki PRF, except the NEC, CIL, as discussed above. The NEC, CIL, being in possession of Tikok OCP, must also be held responsible for the mining of coal by rat-hole mining found inside the said OCP.

3.47 The Commission shall now proceed to discuss the **Terms of Reference No. 3**, which reads as follows :

3. To enquire into the manner of processing of any application, if made, by any organization or individual for grant of mining lease in the aforesaid forest area during the period from 2003 onwards, and also to enquire as to whether grant of any mining lease during the said period was in compliance and in conformity with the provisions of applicable laws i.e. the Mines

and Minerals (Development & Regulation) Act, 1957, the Assam Forest Regulation, 1891, the Forest (Conservation) Act, 1980, the Environment (Protection) Act 1986, the Wildlife (Protection) Act, 1972 and other applicable Laws and Rules.

3.48 The Commission, while answering the Terms of Reference No. 1 & 2 above, has already recorded the finding of continued illegal mining by the NEC, CIL as well as by some unknown operators, in and around Saleki PRF. Coal mining activities also continued in the RFs and PRFs mentioned above, under Digboi Forest Division, including Tikok OCP.


Inputs by the concerned Departments

3.49 The Commission, issued notice dated 29.09.2020 to the Principal Secretary to the Govt. of Assam, Mines and Minerals Department, asking him to provide the inputs in respect of the Terms of Reference, mentioned in the said notice within fifteen days. Similar notice was also issued to the Director, Geology and Mining, Govt. of Assam on 29.09.2020. Reminders dated 05.11.2020 have also been issued to the Principal Secretary and the Director, as no response have been filed by either of them. Another notice dated 03.12.2020 was issued to the Principal Secretary as

well as the Director on 03.12.2020 asking them to reply to the queries mentioned therein and also to submit all relevant records. In the event the relevant records are not available, an affidavit disclosing the reason was also asked to be filed.

3.50 The Commission on 09.11.2020 received a copy of the communication dated 05.11.2020 issued by Director, Directorate of Geology and Mining, Govt. of Assam to the Additional Chief Secretary, to the Govt. of Assam, Mines and Minerals Department furnishing him certain information. Copy of another communication dated 05.01.2021 issued by the Director to the Secretary to the Govt. of Assam, Mines and Minerals Department, marked to this Commission, was received on 06.01.2021 furnishing certain information along with copies of few documents.

3.51 The Deputy Secretary to the Govt. of Assam, Mines and Minerals Department vide communication dated 10.11.2020 submitted the inputs on the Terms of Reference. The following input in respect of Terms of Reference No. 3 was provided to the Commission :



Input for ToR 3.

After nationalization of coal fields, mining lease was granted to Coal India Limited in 1973 for a period of 30 years. The lease expired in 2003. The NEC- CIL had applied for renewal of lease grant on 17.07.2002 under the Mineral Concession Rule, 1960 and the Govt of Assam at Mines and Minerals Department has already renewed most of the Mining Leases after receipt of approval from Ministry of Coal, Government of India except a few.

Present status of lease holding areas are as follows:

Lease Name	Name of Mining Lease	Area	Date of Expiry	Remarks
COAL INDIA LTD.	4 Sq.Mile Mining Lease (Ledo/Borgolai M.L.)	1034.34 (Hects)	08/07/2023	Renewed, vide no PEM.69/2018/22 dated 22 nd July 2019 with the approval of Ministry of Coal, Govt.of India.
	4.48 Sq.Mile Mining Lease (Lekhapani-Tipongpani)	1158.46 (Hects)	08/07/2023	Renewed, vide no PEM.71/2018/24 dated 22 nd July 2019 with the approval of Ministry of Coal, Govt.of India.
	Tirap Coal Grant (588 Acres)	238 (Hects)	08/07/2023	Renewed, vide no PEM.70/2018/24 dated 22 nd July 2019 with the approval of Ministry of Coal, Govt.of India.
	Namdang Coal Grant (387 Acres)	156.36 (Hects)	08/07/2003	Applied for renewal
	Jeypore (3.35 Sq.Mile)	866.26 (Hects)	08/07/2023	Renewed, vide no PEM.72/2018/31 dated 6 th December, 2019 with the approval of Ministry of Coal, Govt.of India.
	Dilli Lease I & II	1036.40 (Hects)	08/07/2003	Applied for renewal
	Ledo Open Cast Project	101.00 (Hects)	20/03/2029	Renewed, vide no PEM.2/2007/287 dated 23 rd September, 2008 with the approval of Ministry of Coal Govt.of India.

Non-production of records

No record relating to the process of application submitted on 17.07.2002 by the NEC, CIL, for renewal of the lease, however, has been submitted to this Commission. The Deputy Secretary, along with the said response dated 10.11.2020 has filed few First Information Reports and a communication dated 08.08.2018 issued by the SDO(Civil), Mergherita to the Director, Geology and Mining, which are

not related to the application filed by NEC, CIL for renewal of the lease.


3.52 Another written response dated 28.01.2021 was submitted by the Deputy Secretary to the Govt. of Assam, Mines and Minerals Department answering the queries mentioned in the notice dated 03.12.2020. The Mines and Minerals Department, Govt. of Assam, in answering the query No. 2, which relates to issuance or renewal of any licence or lease for mining of the coal, has mentioned about the renewal of the lease so far granted as well as the pending application of NEC, CIL, which are already mentioned above. The Mines and Minerals Department, except for enclosing the orders issued by the Commissioner & Secretary to the Govt. of Assam, Mines and Minerals Department granting renewal of the concerned leases for twenty years, did not produce any other document / records, despite the direction issued by the Commission for production of all relevant records pertaining to the Terms of Reference, including Terms of Reference No. 3.

Requirement of MMDR Act and 1960 Rules and its compliance by the officers of the Mines and Minerals Department

3.53 The MMDR Act., as discussed in the preceding part of this Report, imposes general restrictions on undertaking, prospecting and mining operation without

obtaining a licence or lease. The State Govt. is empowered to grant the mining lease with prior consultation with the Central Govt. While granting the mining lease or renewal thereof, the provisions of the 1960 Rules have to be followed. It is the Mines and Minerals Department, Govt. of Assam which grants the mining lease and the renewal thereof. The Director, Geology and Mining, Govt. of Assam is required to verify the application filed for grant of lease or renewal thereof, including the documents required to be submitted by any person / organization. Afield verification is also required to be conducted. Thereafter, the approval of the Govt. of India, Ministry of Coal, is to be obtained before finally deciding to grant the lease or renewal thereof by the Mines and Minerals Department, Govt. of Assam.

3.54 The Director, Geology and Mining, Govt. of Assam, in his deposition recorded by the Commission has admitted that there is no record of conducting any field verification on the applications filed by NEC, CIL for renewal of the aforementioned leases. No record as to the manner of dealing with those applications could also be placed before the Commission by the Director. The Commission has already recorded the finding, while answering Terms of Reference No. 1 and 2, that though the Mines and Minerals Department, Govt. of Assam had taken a decision to renew five leases, the lease agreements having not been registered, as required under the Registration Act. 1908, are not effective till now.



3.55 The Secretary to the Govt. of Assam, Mines and Minerals Department in her deposition recorded by the Commission has stated that the recommendation of the Director, Geology and Mining, Govt. of Assam, is necessary for grant and renewal of lease. The Secretary in her deposition has also stated that the records of Mines and Minerals Department, Govt. of Assam do not have even the copies of the lease deeds executed between the State of Assam and the NEC, CIL, as well as the terms and conditions of any lease. It has also been admitted that the records also do not have anything indicating conduct of any inspection to ascertain the compliance or otherwise of any terms and conditions. The Secretary also could not produce any record before the Commission relating to the manner of dealing with the applications filed by NEC, CIL for renewal of the aforementioned leases.

3.56 According to the Mines and Minerals Department as well as the Directorate of Geology and Mining, Govt. of Assam, except the mining leases, granted to NEC, CIL, which were decided to be renewed, no other mining lease was issued to any organization or individual in Saleki PRF.

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Proposal submitted by NEC, CIL seeking approval under Section 2 of 1980 Act

3.57 The Commission shall now proceed to discuss the matter relating to the proposal submitted by NEC, CIL seeking approval of the Central Govt. under Section 2 of 1980 Act.

3.58 Admittedly, Tikok OCP falls in Saleki PRF. As discussed above, two proposals, one dated 28.11.2003 seeking forest clearance for renewal of three mining leases and the other dated 27.08.2012 seeking approval of Central Govt. under Section 2 of 1980 Act, read with Rule 6 of 2003 Rules were submitted by the NEC, CIL, as it include the forestland. The proposal dated 27.08.2012 was submitted before the Nodal Officer, Office of the PCCF, in Form-A, for Tikok OCP. The proposal dated 28.11.2003 was submitted before the DFO, Digboi Forest Division.

3.59 Prior approval (emphasis added) of the Central Govt. is required, under Section 2 of 1980 Act, before use of any forestland for non-forest purpose. The Commission has already recorded the finding that the NEC, CIL, even before submission of the proposal for forest clearance to the DFO, Digboi Forest Division for the purpose of renewal of the three mining leases, used certain forestland for non-forest purpose. In the proposal dated 27.08.2012 submitted in Form-A, seeking prior approval under Section 2 of 1980 Act, the NEC,

CIL, has also admitted that in so far as the Tikok OCP is concerned, it has already used certain areas of forestland for non-forest purpose.


3.60 The Ministry of Environment, Forest and Climate Change (Forest Conservation Division) Govt. of India in the written response dated 17.11.2020 filed before the Commission has also admitted use of part of 98.59 ha of forest land of Saleki PRF of Dihing Patkai Elephant Reserve for Tikok OCP by NEC, CIL even before submission of the proposal by NEC, CIL seeking approval as required by Section 2 of 1980 Act. In the said response it has specifically been stated that *"There has been gross neglect on this account on behalf of the State Govt."* The Commission has, by the said written response, been informed about the directions issued to the State Govt. including the direction to enquire into the matter of gross violation and identify officials responsible for the violation and also with a further direction to intimate the Ministry about the action taken. The Govt. of Assam except initiation of few departmental proceedings against few officers of the Environment and Forest Department did not take any further actions. The Commission has not been intimated about conduct of any enquiry as well as studies by the Govt. of Assam, in terms of the direction issued while granting the stage-1 approval.

A copy of the said written response dated 17.11.2020 filed by the MoEF(Forest Conservation Division), Govt. of India is made part of this Report as **Annexure 22** in Volume-II.

Role and responsibility of the Environment and Forest Department, Govt. of Assam under 1980 Act and 2003 Rules, as well as its compliance

3.61 The role and responsibility of the Environment and Forest Department of Govt. of Assam are evident from the discussions made herein below, though, it is sought to be projected that the said Department does not have any role to play in relation to the land in a PRF.

3.62 The Hon'ble Supreme Court in **T.N. Godavarman**(*Supra*), as discussed above, has held that the provisions of 1980 Act shall apply to all forests, irrespective of whether it is reserved, protected or otherwise. The Central Govt. in exercise of the power conferred by Sub-Section(1) of Section 4 of the 1980 Act, has framed the 2003 Rules, which came into effect on 10/01/2003, i.e the date of publication of the said Rules in the official Gazette. The said Rule was amended on 03.02.2004 and thereafter on 14.03.2014, 10.10.2014 and 06.03.2017. The 2003 Rules, therefore, came into effect even before the period of the aforementioned thirty years leases, granted to NEC, CIL, expired. Despite expiry of the period of the lease in the year 2003, the formal proposal, in Form-A of 2003 Rules, was submitted by the NEC, CIL to the Nodal Officer only on 27.08.2012. The 2003 Rules, as stood prior to the amendment on 14.03.2014, therefore, shall apply to the said proposal.




3.63 The term "Nodal Officer" has been defined in Rule 2(e) of 2003 Rules, as any officer not below the rank of Conservator of Forests, authorized by the State Govt. to deal with the forest conservation matters under the Act. "User Agency" has been defined in Rule 2(h) of the said Rules as any person, organization or Company or Department of the Central or State Govt. making a request for diversion or de-notification of forestland for non-forest purpose or using forestland for non-forest purpose in accordance with the permission granted by the Central Govt. under the 1980 Act and the Rules framed thereunder. Rule 6 of the said Rules, as amended on 03.02.2004 and as stood on 27.08.2012 (the date on which the NEC, CIL submitted the proposal before the Nodal Officer in Form-A), requires submission of proposal by the user agency, in Form-A seeking first time approval under the Act and in Form-B seeking renewal of leases where approval of the Central Govt. under the Act had already been obtained earlier, to the Nodal Officer authorized in this behalf by the State Govt., along with requisite information and documents, complete in all respects. A copy of the said proposal is also required to be sent to the concerned Divisional Forest Officer. The Nodal Officer, on receiving the proposal, is required to satisfy himself that such proposal is complete in all respects, and requires prior approval under Section 2 of the Act. He shall then send the proposal to the DFO within ten days of the receipt of the proposal. In case

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the proposal is incomplete, the Nodal Officer is required to return the same to the user agency within ten days.

3.64 Rule 6 of the 2003 Rules also specifies the duties of the DFO, who is required to examine the factual details and feasibility of the proposal, certify the maps, carry out site inspection and enumeration of trees, and forward his findings, in the format specified, to the Nodal Officer within a period of ninety days of receipt of such proposal by him. The Nodal Officer, thereafter, is required to forward the proposal to the State Govt., through the PCCF, along with his recommendations, within a period of thirty days of the receipt of such proposal from the DFO. The State Govt. in turn is required to forward the complete proposal, along with its recommendations, to the Regional Office of the Ministry of Environment and Forest, Govt. of India, within sixty days of the receipt of the proposal from the Nodal Officer. Clause(f) of Rule 6 provides that if the proposal is not received from the State Govt. till fifteen days of the time limit as specified in Clause(a), which is 210 days of receipt of the proposal including the transit period by the State Govt., it shall be construed that the State Govt. has rejected the proposal. A duty is also cast on the State Govt. to inform the user agency accordingly. Such proposal, however, can subsequently be forwarded to the Ministry with the explanation for delay and if the Central Govt. is satisfied on the explanation of delay, it may consider such proposal. In such an event the State



Govt., however, must inform the Central Govt. about the action taken against any individual held to be responsible for delay.

3.65 Rule 6 of 2003 Rules, as amended vide G.S.R.94(E), dated 03.02.2004, reads as follows :

¹6. Submission of proposals seeking approval of the Central Government under section 2 of the Act.—(1) Every user agency, who wants to use any forest

land for non-forestry purposes, shall make its proposal in the relevant Form appended to these rules, i.e., Form A for proposals seeking first time approval under the Act, and Form B for proposals seeking renewal of leases, where approval of the Central Government under the Act had already been obtained, to the Nodal Officer of the concerned State Government or the Union Territory Administration, as the case may be, along with requisite information and documents, complete in all respects.

(2) The user agency shall endorse a copy of the proposal, along with a copy of the receipt obtained from the office of the Nodal Officer, to the concerned Divisional Forest Officer or the Conservator of Forests, Regional Office, as well as the Monitoring Cell of the Forest Conservation Division of the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi-110003.

(3) (a) After having received the proposal, the State Government or the Union Territory Administration, as the case may be, shall process and forward it to the Central Government within a period of two hundred and ten days of the receipt of the proposal including the transit period.

(b) The Nodal Officer of State Government or as the case may be, the Union Territory Administration, after having received the proposal under sub-rule (1) and on being satisfied that the proposal is complete in all respects, and requires prior approval under section 2 of the Act, shall send the proposal to the concerned Divisional Forest Officer within a period of ten days of the receipt of the proposal:

Provided that on the determination regarding completeness of the proposal or the expiry of ten days, whichever is earlier, the question of completeness or otherwise of the proposal shall not be raised.

(c) If the Nodal Officer of the State Government or the Union Territory Administration, as the case may be, finds that the proposal is incomplete, he shall return it within the period of ten days as specified under clause (b), to the user agency and this time period shall not be counted for any future reference.

(d) The Divisional Forest Officer or the Conservator of Forests shall examine the factual details and feasibility of the proposal, certify the maps, carry out site-inspection and enumeration of the trees and forward his findings in the format specified in this regard to the Nodal Officer within a period of ninety days of the receipt of such proposal from him.

(e) (i) The Nodal Officer, through the Principal Chief Conservator of Forests shall forward the proposal to State Government or the Union Territory Administration, as the case may be, alongwith his recommendations, within a period of thirty days of the receipt of such proposal from the Divisional Forest Officer or the Conservator of Forests.

(ii) The State Government or the Union Territory Administration, as the case may be, shall forward the complete proposal, along with its recommendations, to the Regional Office or the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi-110003, as the case may be, in the specified Forms within a period of sixty days of the receipt of the proposal from the Nodal Officer.

Provided that all proposals involving clearing of naturally grown trees on the forest land or a portion thereof for the purpose of using it for reforestation shall be sent in the form of Working Plan or Management Plan:

Provided further that the concerned State Government or, as the case may be, the Union Territory Administration, shall simultaneously send the intimation to the user agency about forwarding of the proposal, alongwith its recommendations, to the Regional Office or the Ministry of Environment and Forests, as the case may be.

(f) If the proposal, alongwith the recommendations, is not received from the concerned State Government or the Union Territory Administration, as the case may be, till fifteen days of the expiry of the time limit as specified under clause (a), it shall be construed that the concerned State Government or, as the case may be, the Union Territory Administration, has rejected the proposal and the concerned State Government or the Union Territory Administration shall inform the user agency accordingly.

Provided that in case the State Government or the Union Territory Administration, as the case may be, subsequently forward the proposal, alongwith its recommendations, to the Regional Office or the Ministry of Environment and Forests, as the case may be, the proposal shall not be considered by the Central Government unless an explanation for the delay to the satisfaction of the Central Government is furnished, together with action taken against any individual held to be responsible for the delay.

(4) The proposal referred to in clause (e) (ii) of sub-rule (3), involving forest land upto forty hectares other than the proposal relating to mining and

encroachments, shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, alongwith its recommendations, to the Chief Conservator of Forests or the Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests, Government of India who shall within a period of forty-five days of the receipt of the proposal from the concerned State Government or the Union Territory Administration, as the case may be, (a) decide the diversion proposal upto five hectares and (b) process, scrutinise and forward diversion proposal of more than five hectares and upto forty hectares, alongwith the recommendations, if any, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi 110003, for obtaining the decision of the Central Government and inform the State Government or the Union Territory Administration, as the case may be, and the user agency concerned.

(5) The Regional Empowered Committee shall decide the proposal involving diversion of forest, land upto forty hectares other than the proposal relating to mining and encroachments, within forty-five days of the receipt of such proposal from the State Government or the Union Territory Administration, as the case may be:

Provided that the Central Government may, if consider it necessary, enhance or reduce the limit of the area of the forest land.

(6) The proposal referred to in clause (e) (ii) of sub-rule (3), involving forest land of more than forty hectares, and all proposals relating to mining and encroachments irrespective of the area of the forest land involved, shall be forwarded by the concerned State Government or, as the case may be, the Union Territory Administration, alongwith its recommendations, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi-110003.

3.66 In the aforesaid provisions of the 2003 Rules, time limit for consideration on each stage has been set. The State Forest Department is, therefore, no doubt involved in the process of consideration of the proposal. The concerned DFO is required to make necessary inspection as stated above and the Nodal Officer is also required to satisfy himself about the correctness of the information furnished along with the said proposal.

3.67 As discussed above, the proposal in Form-A dated 27.08.2012, seeking prior approval under Section 2 of

1980 Act., read with Rule 6 of 2003 Rule, for Tikok OCP, was received by the Nodal Officer, office of the PCCF, Assam on 29.08.2012. The DFO, Digboi Forest Division submitted his recommendations on 10.10.2012. The Conservator of Forest made his recommendations on 12.10.2012 along with his inspection note. The Nodal Officer then on 26.11.2012 made his recommendation and thereafter the Secretary, Environment and Forest, Govt. of Assam made the final recommendation on 05.12.2013. The materials placed before the Commission do not reveal submission of certified maps and any document relating to the enumeration of trees by the DFO, along with his recommendation. The report of the site inspection, required to be conducted by the DFO, before making his views / recommendations has also not been produced before the Commission. The aforementioned proposal along with the recommendations have already been made part of this Report as Annexure 10, collectively, in volume-II.

3.68 From the aforesaid discussion, it is, therefore, evident that the Environment and Forest Department of Govt. of Assam, apart from the duties and responsibilities cast by virtue of the provisions of 1980 Act and Rules framed thereunder, has the duty and responsibility to protect any forest land towards the conservation and use thereof, more so when the illegal mining activities have also been carried out on the Reserve Forest land. The Mines and Minerals

Department, Govt. of Assam and its officers are also responsible for protection of the minerals, which they have failed to discharge.

3.69 The Commission in the absence of the record, which have not been produced before it by the aforesaid departments, could not record any finding as to whether the applications for renewal of the lease and the proposal submitted by the NEC, CIL seeking approval under Section 2 of the 1980 Act were duly processed, as required by law, other than the non-compliance of law as noticed above. The Commission, in the absence of record, also could not record any finding as to whether any other application for grant of mining lease was filed by any other individual or organization other than NEC, CIL and, if so, whether those were duly processed.

3.70 The Commission has also been asked to enquire and assess, the extent of illegal mining activities, if any, and the impact of such activities on the flora and fauna generally found in and around the concerned forest area. The **Terms of Reference No. 4**, as notified, reads as follows :

4. To enquire and assess, the extent of illegal mining activities, if any, in and around the aforesaid forest areas and also the impact of such activities,

if any, on the flora and fauna generally found in and around the aforesaid forest area.

3.71 Natural resources of the country like minerals are not meant to be consumed only by the present generation of men or women of the region where such resources exist. These treasures of nature are for all generations to come and for intelligent use of the entire country. The present generation owes a duty to preserve and conserve the natural resources of the nation so that it may be used in the best interest of coming generations as well and for the country as a whole. Unscientific and unplanned extraction of minerals cause huge damages to flora, fauna and surrounding environment. It also poses danger to human life.

The father of the nation, Mahatma Gandhi expressed his concern for nature and environment as under :

"The Earth has enough resources for our need but not for our greed".

3.72 To ensure extraction of mineral in a safe, sustainable and equitable manner by causing least damage to surrounding environment, the Parliament has enacted several Acts. Notable among them are, MMDR Act Water Act, Air Act, 1981 Act, 1972 Act and the Environment (Protection) Act, 1986 (in short 1986 Act).

3.73 The Commission in the preceding part of this report has already recorded the finding about the continued illegal coal mining activities by the NEC, CIL and also by some other persons/organizations.

Non-conduct of satellite mapping through NESAC or like Agency, despite the direction issued by the Commission

3.74 The Commission in order to enquire and assess the extent of illegal coal mining activities, in and around the concerned areas, vide notice dated 05.10.2020 directed the Principal Secretary to the Govt. of Assam, Environment and Forest Department, amongst others, as follows :-

To have an assessment of the extent of illegal mining in and around the Saleki Proposed Reserve since the year 2003, a study shall be commissioned through the North Eastern Space Application Centre (NESAC), Umiam, Meghalaya or the National Remote Sensing Agency (NRSA), Hyderabad, or the Space Application Centre (SAC), Ahmedabad, to assess and map the areas under mining in and around (10 km from its boundary) the Saleki Proposed Reserve Forest in the years, 2003, 2010, 2015, 2018 and 2020 by using

High Resolution Satellite Imageries and a report of such study shall be submitted to the Commission within 3(three) months.

3.75 The Commission, prior to that also issued notice dated 29.09.2020 to the Principal Secretary, Environment and Forest Department, Govt. of Assam, as well as to the PCCF & HoFF, Assam. In response to the notice dated 29.09.2020, the PCCF & HoFF, Assam vide the written response dated 13.10.2020 has suggested conduct of an aerial survey of all damaged forest areas using drone as well as preparation of a plan for restoration and rehabilitation of the mined areas under the supervision of the Assam Forest Department and an independent third party for implementation and monitoring. The notice dated 05.10.2020 was delivered in the office of the Principal Secretary, Environment and Forest Department, Govt. of Assam on 05.10.2020 itself. The Environment and Forest Department, Govt. of Assam, thereafter, vide communication dated 20.10.2020 requested the PCCF & HoFF and the Secretary to the Govt. of Assam, Mines and Minerals Department, to furnish the required information/documents in the prescribed manner on the Queries I to XLVII, in tabular form, without, however, issuing any direction to conduct the Satellite Mapping, as aforesaid. The office of the PCCF & HoFF vide communication dated 26.11.2020 submitted the required information/document on Query Nos. I to XLVII, in tabular form, to the Principal

Secretary to the Govt. of Assam, Environment and Forest Department, which ultimately has been submitted to this Commission, with an affidavit from the Addl. Secretary to the Govt. of Assam, Environment and Forest Department dated 29.12.2020.

3.76 The Environment and Forest Department, Govt. of Assam, for the first time, vide communication dated 19.12.2020 instructed the PCCF & HoFF to ensure conduct of the study, as aforementioned, through the NESAC, though the Principal Secretary of the said Department received the notice requiring conduct of such study way back on 05.10.2020. The Commission was informed that the office of the PCCF & HoFF, thereafter, on 12.02.2021, formally requested the NESAC to conduct the Satellite Mapping and the NESAC has informed the representative of PCCF & HoFF that they will require three months time to conduct the Satellite Mapping and to submit the report. The officers of PCCF & HoFF have requested the NESAC to expedite submission of the report within a month (refer the statement of Sri Indreswar Kalita, ACS, Addl. Secretary to the Govt. of Assam, Environment and Forest Department recorded by the Commission on 17.03.2021). Till date no report on the Satellite study directed to be conducted by the NESAC, has been submitted to this Commission. It is also evident from the aforesaid discussion that though the Commission vide notice dated 05.10.2020 directed the Principal Secretary,

Environment and Forest Department, Govt. of Assam, to conduct such mapping and study, instruction was issued to the PCCF & HoFF, Assam only on 19.12.2020. The PCCF & HoFF, Assam on 12.02.2021, i.e almost a month after the initial tenure of 6(six)months of the Commission had expired, formally requested the NESAC to conduct the satellite mapping.

3.77 It appears that instructions to conduct Satellite Study through NESAC was issued after a meeting was called by the Chief Secretary, Assam on 12.02.2021, to discuss about the order passed by this Commission on 06.01.2021, copy of which was sent to the Chief Secretary, Assam, intimating partial submission and/or non-submission of information/data by few departments/agencies as sought by the Commission and inability of the Commission to submit the report within the stipulated time, i.e. 19.01.2021.

Extent of illegal coal mining and encroachment as appeared from the reports submitted by the Environment and Forest Department, Govt. of Assam

3.78 The Chief Conservator of Forest and Nodal Officer, Assam, vide communication dated 04.03.2021 submitted a Satellite Imagery Based Report of coal mining in and around Saleki PRF, prepared by the office of the PCCF & HoFF, Assam, and signed by three IFS Officers, as well as some research papers/reports available on the aquatic life of

Burhi-Dihing River. The said Satellite Imagery Based Report was prepared based on the data available on the Google Earth.

3.79 The said report was submitted to the Commission to have a preliminary view of the matter. The necessity of having a detailed study has also been stated in the said report. The extent of mining in and around (10 km from boundary) Saleki PRF as recorded in the said report, is as under:

Sl. No.	Year	Mining area in PRF	Mining Area outside PRF	Open Cast Area	Rat Hole Area*	Total Area
1	2003	183.0	9.0	192.0	0.0	192.0
2	2010	345.5	56.0	401.5	0.0	401.5
3	2015	424.8	90.6	515.3	0.0	515.3
4	2018	474.7	156.1	452.4	178.4	630.7
5	2020	1043.2	415.6	479.1	979.7	1458.8

**Rate Hole area figures are approximations; actual effect of rat hole mining is much more. All area figures are in Ha and all area figures are from beginning of respective year.*

3.80 Even from the aforementioned report, which according to the Environment and Forest Department, gives a preliminary indication, it is evident that rat-hole coal mining activities have increased in the year 2018 and in 2020. The area covered by rat-hole mining in the year 2020 was more than double the area over which the NEC, CIL mined coal in the OCP, in Saleki PRF. In the said report it has also been stated that the rat-hole area figures mentioned are

approximation and the actual effect of rat-hole mining is much more.

A copy of the said report, submitted by the Chief Conservator of Forests and Nodal Officer(FC Act) vide communication dated 04.03.2021 is also made part of this Report as **Annexure 23** in **Volume-II**.

3.81 The satellite imageries dated 15.12.2017, 28.01.2020 and 21.03.2020, sourced from Google Earth, which are made part of the aforesaid report submitted by three IFS Officers of the Environment and Forest Department, Govt. of Assam, reveal astronomical increase of rat-hole mining activities from the year 2018.

Imageries taken on 15.12.2017 and 28.01.2020 and 21.03.2020, Landsat & Spot, are made part of this Report as **Figure 31** and **Figure 32**.

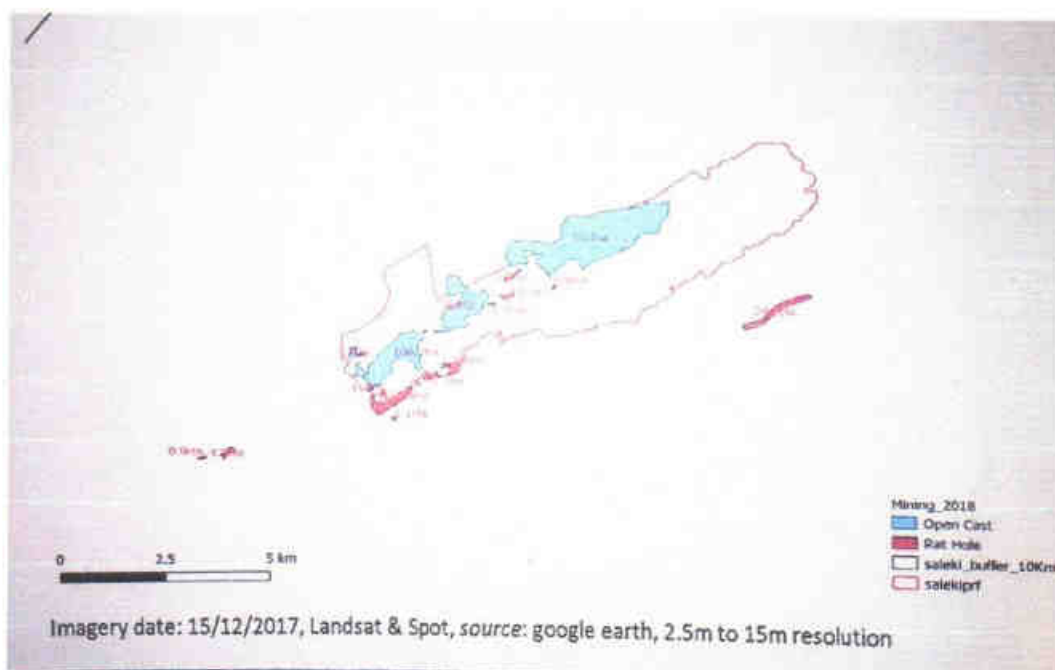


Fig. 31

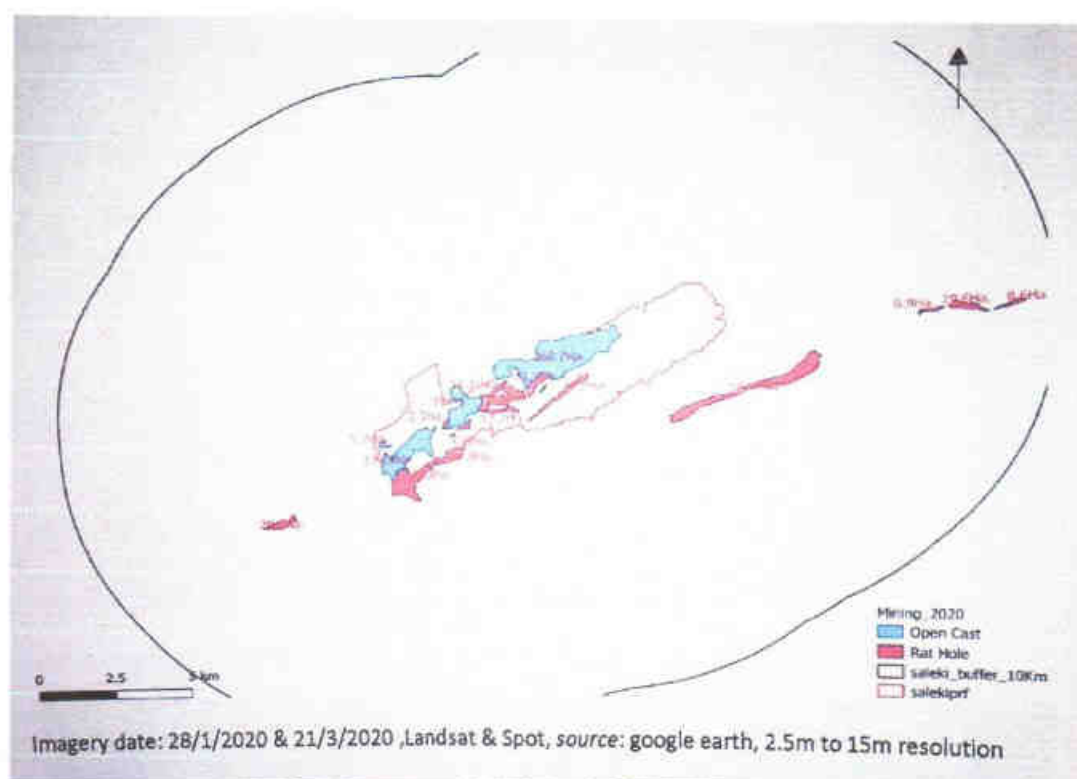


Fig. 32

3.82 The Addl. PCCF(WL) and Chief Wildlife Warden, Assam has made available the maps of Saleki PRF, total area of which is 3008.21 ha for the years 2004, 2009 and 2021, based on the satellite imageries. It is evident from the aforesaid maps of Saleki PRF that while the mining area in the said PRF was 118.49 ha in the year 2004, the same has increased to 132.40 ha in the year 2009. The mining area has further been increased to 325.61 ha in the year 2021. The encroachment, other than the mining areas, in Saleki PRF was nil in the year 2004. The encroachment in the year 2009, other than the mining area was found to be 271.74 ha, which includes encroachment of 247.93 ha of land by the tea gardens. The encroachment in the year 2021, other than tea garden, has increased from 23.81 ha to 56.22 ha. Thus it

appears that after the year 2004 the encroachment of the forest land of Saleki PRF, has increased considerably.

Figures 33, 34 and 35 are the said maps of Saleki PRF, for the years 2004, 2009 and 2021, respectively.

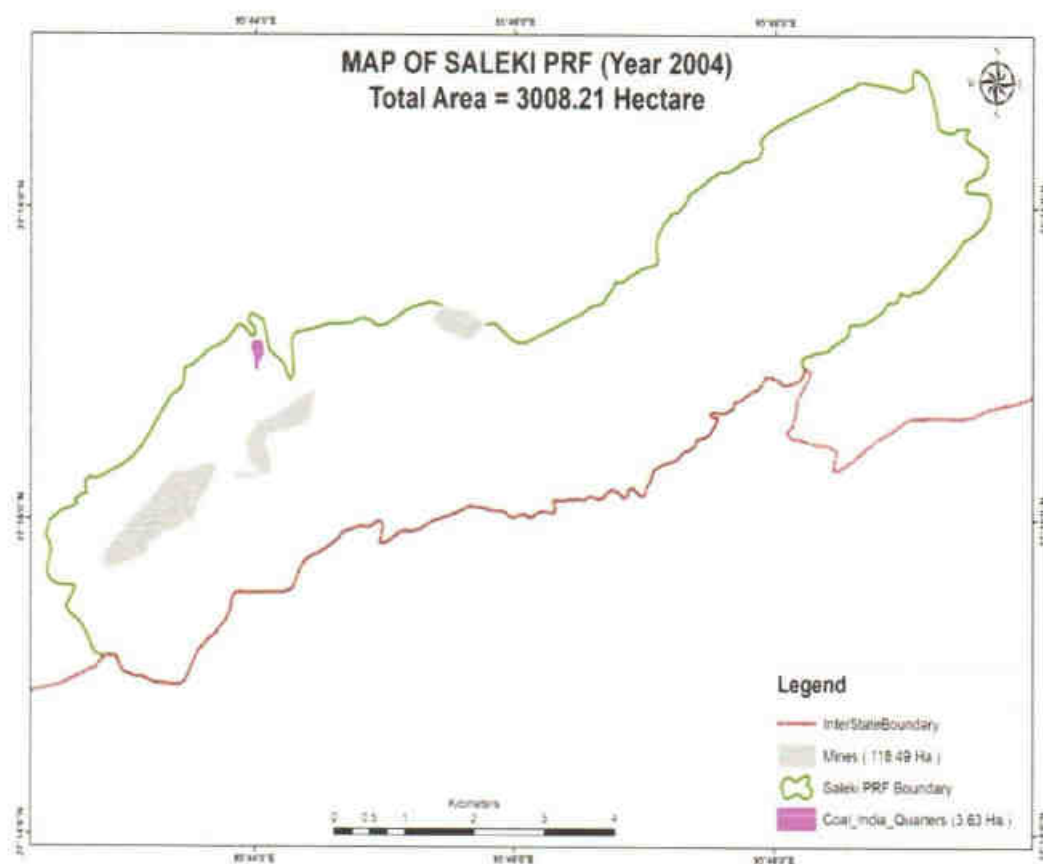


Fig. 33

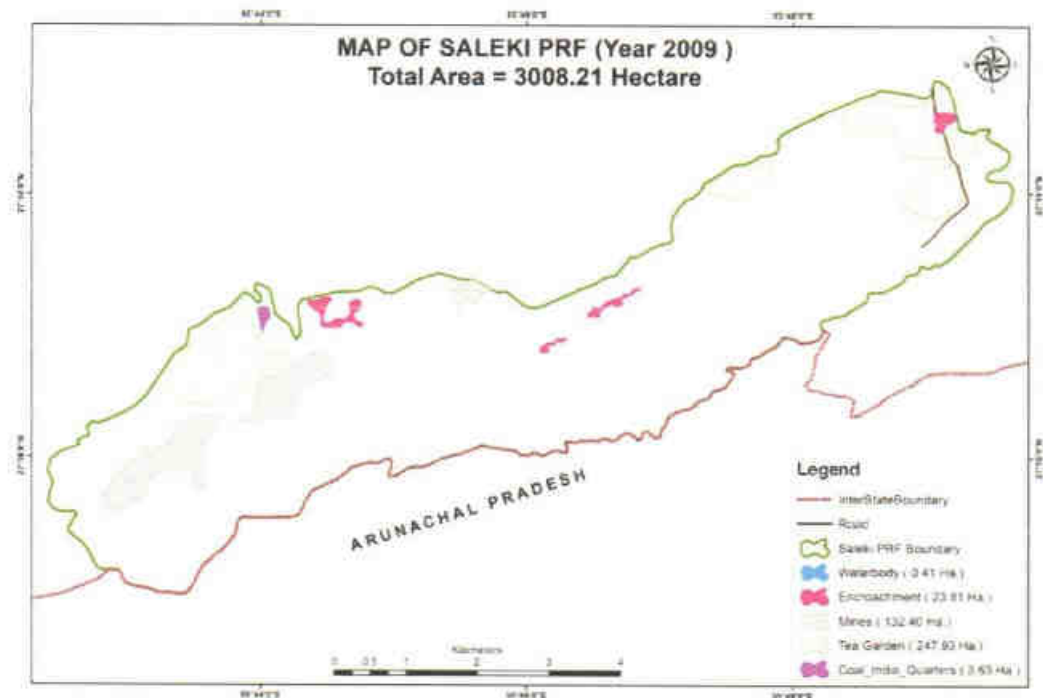


Fig.34

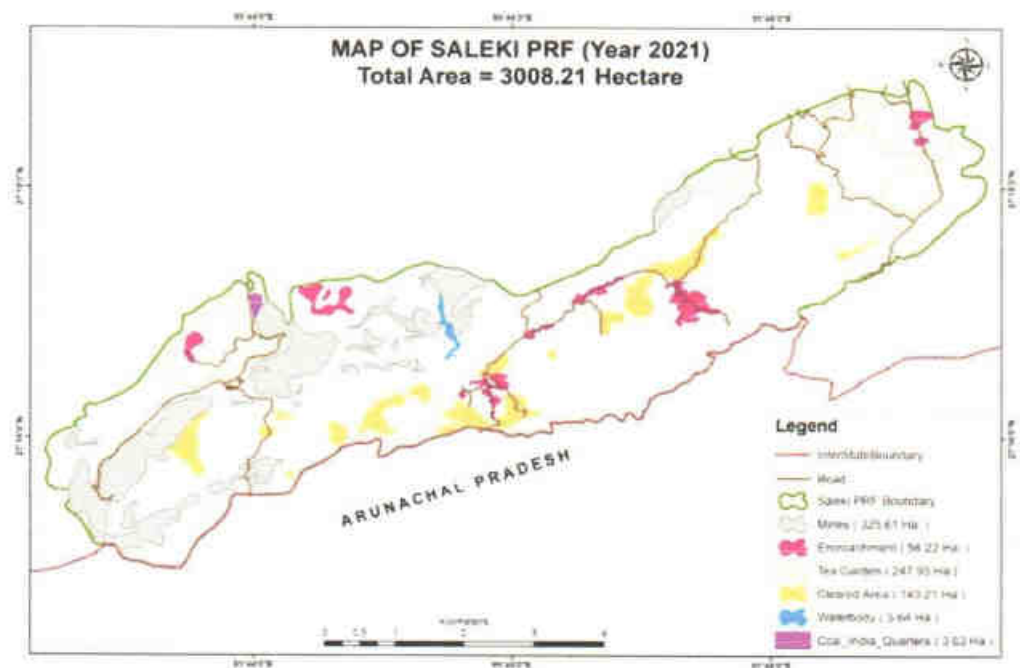


Fig.35

3.83 Extraction of huge quantity of coal by illegal mining, other than by the NEC, CIL, has also been admitted by the Sub Divisional Officer(Civil), Margherita in his communication dated 08.08.2018 issued to the Director,

Directorate of Geology and Mining, Assam, wherein it has been estimated that from 400-40,000 persons carry approximately 30-40 Kg of coal per person per day in two trips. Thus, according to the SDO(Civil) Margherita, approximately 12,000 to 12,00,000 Kg of coal per day was illegally mined, resulting in huge loss of revenue. The SDO(Civil) has also accepted that such pilferage of coal causes huge loss to the State exchequer.

A copy of the said communication dated 08.08.2018 issued by the SDO(Civil), Margherita is made part of this Report as **Annexure 24** in **Volume-II**.

3.84 The Commission, however, is unable to assess, the extent of illegal coal mining activities, other than by NEC, CIL, due to non-conduct of satellite mapping of the area through NESAC or like agencies, as directed.

Coal production of NEC, CIL

3.85 The General Manager of NEC, CIL in his deposition has stated about the production of coal in North-Eastern Coal Fields by the NEC, CIL, in Tipong, Ledo, Baragolai, Tirap and Tikok Colliery as well as Ledo OCP from the years 2003-04 to 2020-21. **Figure-36** is the coal production in tons, as furnished by the General Manager, NEC, CIL.

COAL PRODUCTION OF NORTH EASTERN COALFIELDS									
(Fig.in tes)									
COLLIERY	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
TIPONG COLLIERY	44303	64796	50025	50200	48292	23652	0	1522	3499
LEDO COLLIERY	27239	30070	30250	24521	20767	12072	0	0	0
BARAGOLAI COLLIERY	51007	54848	42621	35833	24679	9278	0	0	0
TIRAP COLLIERY	420224	365570	655317	489807	540020	502425	572900	530008	195676
TIRAK COLLIERY	190361	112851	321800	449679	466962	422707	455042	455073	275938
LEDO (OCP)	0	0	0	0	0	39314	84624	113896	127212
TOTAL:-	733134	628135	1100013	1050040	1100720	1009448	1112566	1100499	602325

COLLIERY	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
TIPONG COLLIERY	3079	3062	3096	3043	3033	3000	0	0	0
LEDO COLLIERY	0	0	0	0	0	0	0	0	0
BARAGOLAI COLLIERY	0	0	0	0	0	0	0	0	0
TIRAP COLLIERY	291057	507788	457648	178954	197215	468461	529767	450046	35941
TIRAK COLLIERY	183300	56006	316332	212355	330035	286182	252252	66794	0
LEDO (OCP)	127332	96804	1944	92180	70005	23688	1968	0	0
TOTAL:-	604768	663660	779020	486532	600288	781331	783987	516840	35941

32/01/21
30/10/21
 Area Manager (Planning)
 North Eastern Coalfield
 Mangalore
Sandhya Prasad Dubey

Fig. 36

3.86 The Commission has already recorded the finding that all mining activities are by the NEC, CIL, after expiry of the original lease period of thirty years granted after coming into force the 1973 Act, are illegal, in the absence of prior approval of the Central Govt. as required under Section 2 of 1980 Act and also in the absence of any valid registered lease executed under the MMDR Act and the Rules framed thereunder. Hence, the extraction of coal by the NEC, CIL is also illegal. The extent of illegal coal mining activities by NEC, CIL is, therefore, ascertainable, as indicated above.

Impact of coal mining on the flora and fauna

3.87 The Commission has not been apprised about conduct of any recent study on the flora and fauna of the

concerned area. In the absence of such detailed study it is not possible to record impact of illegal coal mining activities on the flora and fauna generally found in and around the concerned forest area. The Assam Bio-Diversity Board, however, published the Peoples Bio-Diversity Register prepared by Margherita Bio-Diversity Management Committee, within which jurisdiction Saleki PRF and Tikok OCP falls. The said Register was published in the year 2018. No record relating to preparation of such register prior to 2018 or subsequent thereto has been produced by the Assam Bio-Diversity Board. The Commission also could not assess the impact of such illegal mining on the flora and fauna generally found in and around the aforesaid forest areas in the absence of the base line data prior to the study conducted by the Rain Forest Research Institute (Indian Council of Forestry Research and Education) for preparation of the Regional Wildlife Plan for the Makum Coal Fields in Assam in the year 2017. The said study includes the forest around the mining sites, apart from the wildlife species. The study area includes the RFs and PRFs of Digboi Forest Division, which includes Saleki PRF.

Regional Wildlife Plan 2017

3.88 Pursuant to the condition laid down in the Stage-I clearance for 72 ha of Tikok extension OCP and 235 ha of Lekhapani OCP, the Regional Wildlife Plan for entire

Makum Coal Field in Assam was prepared by the Rain Forest Research Institute (RFRI), Jorhat, in the year 2017 with the following study area, :

1.3 Study Area

The leasehold area of North Eastern Coalfields (NEC) covers forest and non-forest areas amongst hilly terrains within Digboi Forest Division. Within these areas lie different coal mining sites. Coal mining activities of NEC, Coal India Limited (CIL) are at present confined to Makum Coalfield in Tinsukia district of Assam. NEC with its head office at Margherita is running six coal mines i.e. Baragolai, Tipong, Ledo, Tirap, Tikak and Ledo in Assam. The Coalfields cover an area of 2688.16 hectares under mining leases of Lekhapani-Tipongpani Mining lease (1158.46 Ha), Tirap Coal grant (238 Ha), 4 square-mile mining lease (1034.34 Ha), Namdang Coalgrant (156.36 Ha) and Ledo OCP mining lease (101 Ha). Baragolai Coal mine is one of the oldest underground mines operating under the Makum Coalfields of NEC, Margherita, Assam. The Tirap, Tikak and Ledo open cast mines are at present the only coal producing open cast mines in Makum Coalfields.

3.89 The objective of the study was to prepare the Regional Wildlife Plan for the region covering 10 km buffer zone of Makum Coal Fields, in the State of Assam. Wholly or partly, 16 RFs/PRFs belonging to 4 ranges fall in the buffer zone, which are

- Lekhapani Range: Tipang RF, Tirap PRF, Dalai PRF, Paharpur RF, Saleki PRF, Tirap RF, Tipong PRF, Lekhapani RF.
- Jagun Range: Namphai RF, Kotha RF, Tinkopani RF, Namphuk RF
- Margherita East Range: Dirak RF, Upper Dihing RF (East), and Makumpani RF,
- Margherita West Range: Upper Dihing RF (West).

The study area as shown in figure 1.1 of the aforementioned Regional Wildlife Plan, 2017 is as follows as

Figure 37 :

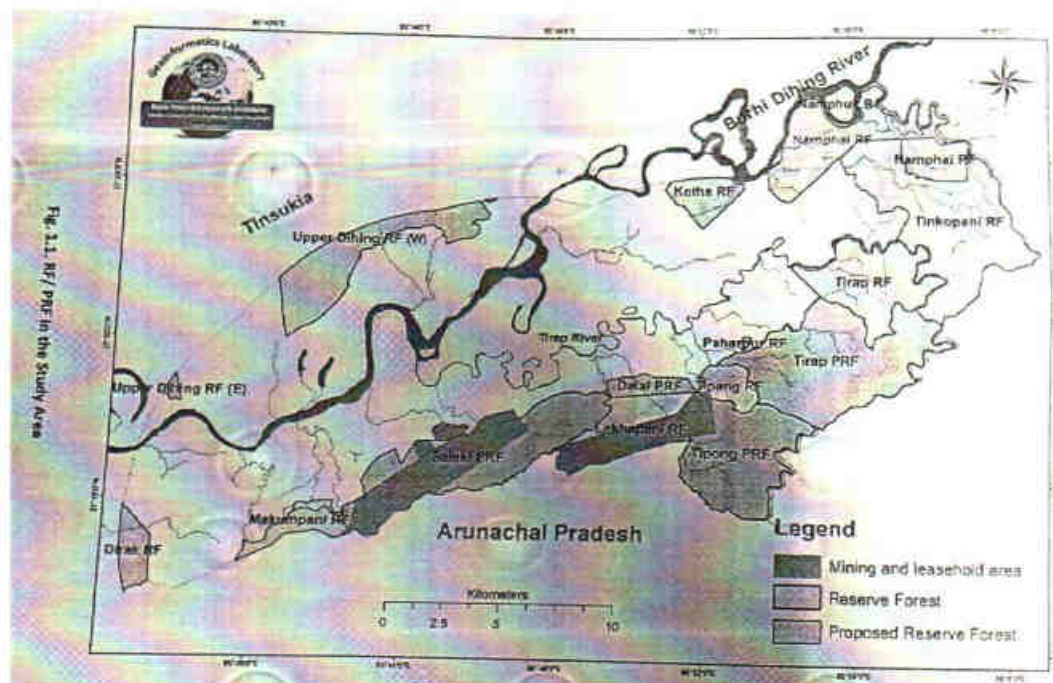


Fig. 37

3.90 The forest types / vegetation as well as the wildlife and land use /cover, of the study area, are found to be as under in the aforementioned Regional Wildlife Plan :

2.6 Forest Types/Vegetation

The forest of the study area falls under IB/C1-Assam Valley Wet Evergreen Forest Type (Champion and Seth, 1968), or more commonly known as Upper Assam *Dipterocarpus-Mesua* formation. Being in a unique ecological location, this landscape is very rich in terms of flora and fauna. The peculiarity of this Assam Valley Lowland Tropical Forest is the three tier vegetation structure. The top tier looms over the rest and consists of isolated, tall, evergreen or deciduous trees which grow to a height of even up to 35-40 m. The common species are: *Dipterocarpus retusus* (Hollong), *Artocarpus chama* (Sam), *Shorea assamica* (Mekai), *Tetrameles nudiflora* (Bhelu) and *Teminalia myriocarpa* (Hollok). Each of these grows tall and handsome with spreading branches and abundant foliage. *Dipterocarpus retusus* occurs gregariously on the well-drained high level alluvial plains in the foothills while at higher elevations and on the ridges, it is replaced by *Shorea assamica* which occurs in more or less pure patches on comparatively dried & gravelly soils. Other species which are found to occur in the top canopy sporadically are *Michelia champaca* (Sopa), *Canarium resiniferum* (Dhuna), *Altingia excelsa* (Jutuli), *Amoora wallichii* (Amari) and *Ailanthus grandis* (Barpat). The middle tier consists of several medium sized trees growing up to a height of about 25 m. like *Mesua ferrea* (Nahor), *Cinnamomum glanduliferum* (Gonsoroi), Khokan (*Duabanga grandiflora*) etc.

Arenga pinnata, *Caryota urens*, *Livistona jenkinsiana*, etc. are few of the palms that occur in these forests. The epiphytic flora is very rich and some of the common epiphytic ferns are the species of *Aerides*, *Cymbidium*, *Eria*, *Pholidota*, *Dendrobium* etc. Along the hill slopes wild species of *Musa* comprising *Musa acuminata*, *M. balbisiana* and *M. rosacea* form thickets which are the prominent feature of the vegetation.

Trees are heavily plastered with lichens and festooned with climbers and epiphytes of the numerous lianas like *Pericampylus glaucus*, *Stephania elegans*, *Parabaena sagittata*, *Mimosa himalayana*, *Combretum acuminatum*, species of *Bauhinia*, *Derris*, *Entada*, *Gnetum*, *Hodgsonia*, *Piper*, *Raphidophora*, etc. The ground tier consists of shrubs, climbers, orchids and ferns. The ground flora is mainly represented by herbaceous elements such as *Phrynium* sp., *Begonia roxburghii*, *Floscopa scandens*, *Rhynchoglossum* sp., *Abacopteris lakhimpurensis*, etc.

Regional Wildlife Plan

Because of the existence of quite close canopies in the overhead and resultant accumulation of thick humus on the forest floor, different species of herbs, ferns and grasses constitute rather a thick ground cover.

2.7 Wildlife

Bio-geographically, the study area falls under the North-East Brahmaputra Valley province 9 (A). The vegetation forms an ideal habitat for non-human primates. Till date, 46 species of mammals, 71 species of reptiles and amphibians, 70 species of fishes and nearly 40 species of dragonflies and 276 species of butterflies have been listed from this region. The recorded major mammal species from this landscape are – Hoolock Gibbon, Slow loris, Pig-tailed Macaque, Stump-tailed Macaque, Capped Langur, Asian Elephant, Tiger, Black Panther, Leopard, Gaur, Chinese Pangolin, Himalayan Black Bear, Himalayan Squirrel, Leopard Cat, Clouded Leopard, Porcupine, Crab Eating Mongoose, Sambar, Malayan Sun bear, Binturong, Barking deer, Golden cat, Marbled cat, Fishing Cat, Civet etc. (Anon. 2016)

The reptiles here include Burmese Rock python (*Python molurus*), Bamboo pit viper (*Trimeresurus gramineus*), King cobra (*Ophiophagus hannah*), Asian leaf turtle (*Cyclemys oldhamii*), and Water lizard/monitor (*Varanus salvator*). There are 13 globally threatened species here viz., the Slender-billed Vulture, White-winged Duck, Greater Adjutant, Greater Spotted Eagle, Lesser Adjutant, Beautiful Nuthatch, Marsh Babbler, Tawny-breasted Wren Babbler, White-cheeked Hill Partridge, Great Hornbill, Brown Hornbill, Oriental Darter and Painted Stork. At least 10 of the bird species are listed in Schedule-I of Wildlife (Protection) Act, 1972 including the state Bird of Assam-White-winged Wood Duck (Anon. 2016).

2.8 Land use/ cover

The study area includes Makum Coal field area and its 10 km buffer zone that falls under Digboi Forest Division. The area of the buffer zone is 484.8 km². The study area was categorized under major land use/ cover classes. 52.3% of the area is coming under forest cover. Moderately Dense Forests with an area of 16256.1 ha covers the maximum area followed by Open Forests (7043.8 ha) and Very dense forests (2070.4 ha). Among the other land uses, Agriculture with an

area of 10373.4 ha is the dominant land use followed by Scrub land (2994.1 ha), and Tea gardens (2940.5 ha)

3.91 The following are the excerpts from the Bio-Diversity Management Plan submitted by RFRI, Jorhat :-

- (i) Water Quality Analysis :It is seen from the datas of sediment soil characteristics of Mota Beel (Patkai Lake) during 2007-08 that the parameters of pH value is very high 5.4 ± 0.2 , values of other elements are also found to be high viz – Mn 646.4 ± 33.5 , Cu 0.61 ± 0.007 , Cr 1.45 ± 0.02 , As 0.061 ± 0.05 , Ni 2.68 ± 0.4 , Zn 41.33 ± 1.9 , Pb 50.56 ± 2.05 and Physico-chemical

characteristics of water of Mota Beel was found to be highly contaminated viz D.O (mg/l) 2.9 ± 0.4 , Arsenic (mg/l) 0.002 ± 0.001 , Zinc (mg/l) 0.84 ± 0.06 and Lead (mg/l) 0.074 ± 0.004 . *Such a quality of water would be highly dangerous to the wild animals that might have been partaking water from the water body.*

- (ii) Around 3,754 ha of area was found coming under open/degraded forest which is recommended for further densification by planting suitable species. Selected pockets of moderately dense forests also may be enriched in a similar way.
- (iii) As per the details of the proposed budget for biodiversity management an amount of Rs. 4738.06(in lakh) was estimated however subsequently the DFO, Digboi suggested an upward revision to Rs. 62.50 Crores.
- (iv) As per the biodiversity management plan, the data furnished shows the following were found in the study area: 220 tree species, 103 shrub species, 121 Herb species, 37 orchid species, 32 Ferns species, 65 Bryophytes, 34 species of fungi, 23 species of lichens.
- (v) The study has recorded bird species viz 71 rare bird species, 14 winter migrant bird species, 2 summer migrant bird species, 1 endangered species etc.
- (vi) There are 27 herpetofauna found in the study area, 25 species of major insects, 144 butterflies species, 36 Fish species in the Mota Beel, 56 Phytoplanktons of four different groups, 33 species of zooplankton in the study area of Mota Beel.

3.92 It appears from the Wildlife Management Plan 2017 that RFR used sampling, direct sighting and indirect sign survey methodology for assessment of major wildlife such as Elephant, Hoolock Gibbon, Leopard and Avifauna. The estimates was done in 2015 and 2016. The transact

survey found dung and footprints of Elephants in Saleki PRF and Tirap RF. However, no direct encounter of wild Elephant could be made. The Hoolock Gibbon studies was carried out at Saleki PRF, Tipong RF and Tirap RF in 2016. A total of 14 groups were recorded. Six individuals were identified in Tipong RF were encountered while no direct sighting of Gibbon was made in Saleki PRF. Gibbon calls were heard and seven individuals were encountered in Tirap RF.

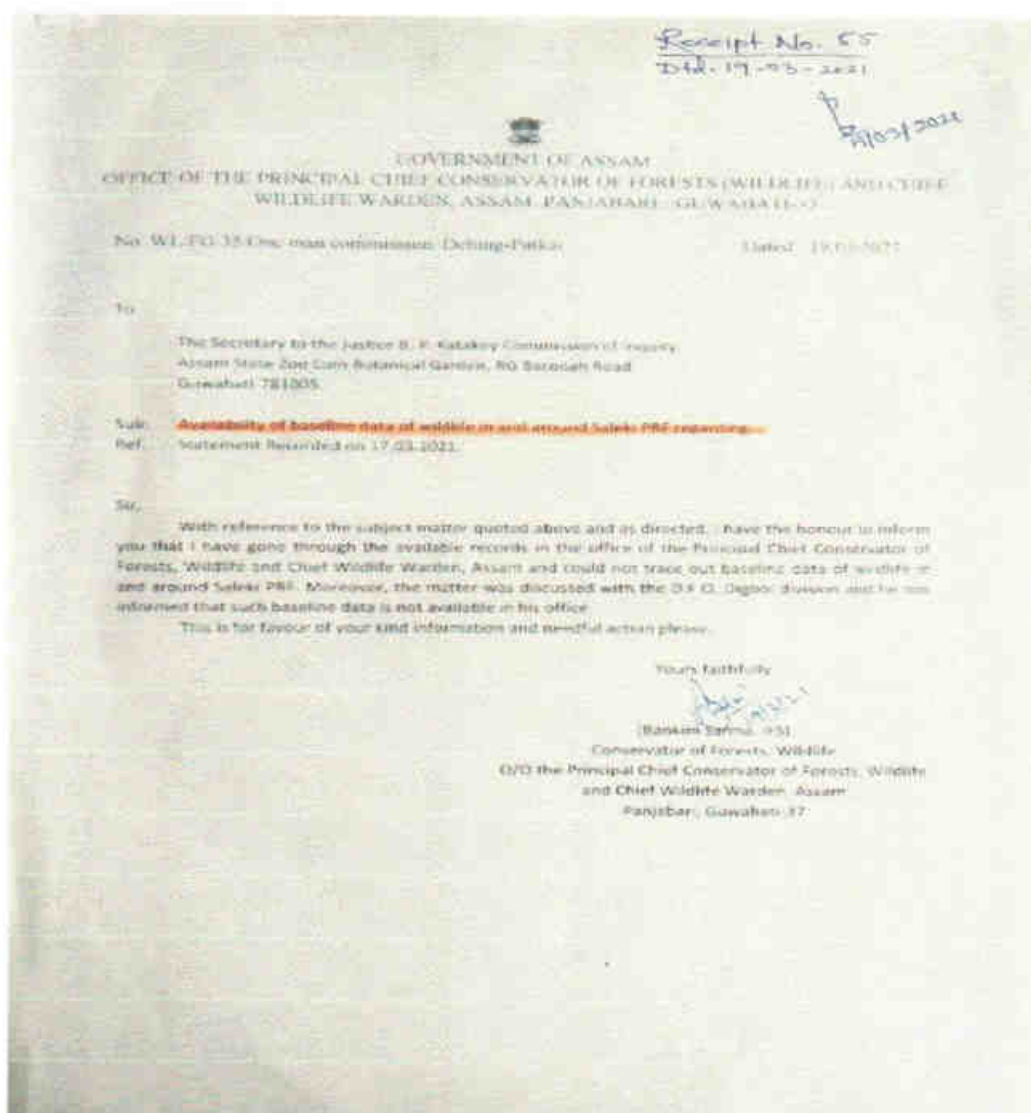
While no direct sighting of Leopard could be done during the survey on 2016. Camera traps were used for the cat survey in Tipong RF, Tirap RF, Dalai RF, Dirok RF & Saleki PRF. In the Tirap RF, they found evidence of Barking Deer, Sambar, Wild Pigs and Porcupine. The study calculated based on the prey sign encountered rate, the available bio-mass as 37.2 kg. per km. which cannot support more than 4 Leopards.

During the Avifauna survey, a total of 168 birds species belonging to 50 families and 106 genera was recorded from Tipong, Tirap, Dirok, Dalai, Makumpani RFs and Saleki PRF.

3.93 The Conservator of Forest, Wildlife, office of the PCCF(Wildlife), and Chief Wildlife Warden, Assam, vide his communication dated 19.03.2021, however, has apprised the Commission that the available records do not reveal any baseline data of wildlife in and around Saleki PRF. It has also

been informed that even the DFO, Digboi Forest Division does not have any such baseline data available in his office.

The said communication is reproduced below :



3.94 The Forest Department of Govt. Of Assam or the NEC, CIL did not make any systematic attempt to assess the richness of the existing Bio-Diversity of the area. The only attempt was made in the year 2017, while preparing the Regional Wildlife Plan, 2017. It is also evident that no recent

survey on the flora and fauna, generally found in the aforesaid forest area, has also been conducted by the concerned department of Govt. of Assam. No department, therefore, has taken the issue of illegal mining as well as its affect on the flora and fauna seriously, reasons for which are required to be found out by instituting an inquiry through an independent agency, so that no one from the concerned Departments can try to influence such inquiry.

Study Conducted by Environmental Scientists

3.95 The scholars / researchers, however, have conducted various studies on the environmental issues arising out of coal mining activities in the State of Assam and the treatment approaches. One of such study was conducted by **Mayuri Chabukdhara**, Department of Environmental Biology and Wildlife Sciences, Cotton University, Guwahati, Assam and **O.P Singh**, Department of Environmental Studies, North Eastern Hill University, Shillong, Meghalaya. A paper, on the basis of such study, was published on 25.05.2016 in the **International Journal of Coal Science and Technology (2016)**.

3.96 The following environmental issues associated with coal mining and its utilization in the North Eastern Region, have been recorded in the said paper:-

- (i) Threat to environment, resulting in reduction of forest cover and loss of biodiversity, soil erosion and pollution of air, water and land;
- (ii) Large-scale denudation of forest cover, scarcity of water, degradation of soil and agricultural lands;
- (iii) Environmental implications due to haphazard dumping of coal and overburden;
- (iv) Environmental pollution due to Coke industry;
- (v) Disruption of ecology of the surrounding area of the coalfields due to Acid Mine Drainage (AMD);
- (vi) Impact of AMD in the streams and the ground water at the vicinity of collieries etc.

3.97 The management and treatment strategies to reduce environmental impacts of coal are summarized in the said papers as under :

"Since coal mining and its utilization in coal based industries is associated with environmental issues, it is necessary to manage or mitigate its impact on environment or clean coal prior to its utilization. An attempt was made by Dowarah et al. (2009) to achieve eco-restoration of a high-sulfur containing coal mine overburden dumping site through primary and secondary ecological succession of native plant species in Tirap Collieries, Assam, India. The study revealed that planting of herbaceous monocots with fibrous root systems such as citronella, lemon grass, Saccharum spontaneum, lianes and shrub species accelerates the ecological processes in an adverse mine overburden environment of Tirap colliery and a secondary sere ecological succession was observed in the restored mine site. In addition, 80 %–100 % vegetation coverage was observed, the plant species density was more than 80 %, and soil organic matter increased from 0.001 %–0.005 % to 0.5 %–1.3 %. Restoration refers to reinstatement of the pre-mining ecosystem in all its structural and functional aspects (Bradshaw 2000). Re-vegetation plays a crucial role in enhancing the soil fertility status in mine spoil and in the stabilization of dump slopes by creating mechanical reinforcement of dump material and enhancing shear strength

of dump material (Singh 2011; Singh et al. 2012a, b). Soil structure development, nutrient cycling, and soil chemical and physical limitations to plant growth are mediated and mitigated by microorganisms and they play a very important role in eco-restoration (Singh and Singh 2006).

Mineral matter and sulfur exhibit harmful effects on utilization of coal. De-sulfurization and de-ashing are essential for sustainable utilization of low rank high sulfur coals used in different industries (Baruah et al. 2006; Baruah and Khare 2007b; Saikia et al. 2013). Sequential solvent extraction was found to be an effective method of desulfurization of high sulfur containing Assam coal, especially for organic sulfur, which could be removed up to 89 % (Das and Sharma 2001). Investigation on desulfurization of coal samples from Baragolai and Ledo collieries of Makum coal field, Assam, India using alkali treatment leads to over 70 % removal of inorganic sulfur, and removal of sulfur increased with increase in alkali concentration and treatment time (Mukherjee and Borthakur 2003). In another study, for the same coal, solvent extraction and alkali treatment showed successful removal of organic and inorganic sulfur. Solvent extraction using dimethyl formamide (DMF) increased desulfurization of the oxidized Baragolai and Ledo coals up to 95 % and 93 % for inorganic sulfur and 31 % and 23 % organic sulfur, respectively, while the alkali treatment showed complete removal of inorganic sulfur and a maximum of 33 % and 26.4 % organic sulfur for these coals, respectively (Baruah and Khare 2007b). Alkali treatment of high sulfur Assam coal using mixtures (1:1) of 16 % sodium hydroxide and potassium hydroxide solution followed by 10 % hydrochloric acid could remove 50 %–54 % of the ash, total inorganic sulfur, and around 25 % organic sulfur (Mukherjee 2003). 9.4 % of the total organic sulfur was removed by electron transfer process (Borah and Baruah 1999). In another study, approximately 93 % and 98 % of the pyritic sulfur was removed in the case of the Baragolai and Ledo coal of Makum, Assam, respectively, using 15 % (v/v) hydrogen peroxide + 0.1 N sulfuric acid (Mukherjee and Srivastava 2004). An attempt was made to clean some low rank medium to high sulfur coal samples from northeast India using low ultrasonic energy (20 kHz) in the presence of

H_2O_2 solutions and it showed removal of 31 %, 48 %, 51 %, 48 % and 32 % of total sulfur, organic sulfur, pyritic, sulfate sulfur and ash, respectively (Saikia et al. 2014b). In a similar study, treatment using application of ultrasonic energy (20 kHz) in aqueous and mixed alkali media (1:1 KOH and NaOH) on coals collected from Assam and Nagaland, India showed that the maximum removal of ash, pyritic sulfur, sulphate sulfur and total sulfur were 87.52 %, 83.92 %, 12.50 % and 18.80 %, respectively (Saikia et al. 2014c). Ultrasound assisted coal de-sulfurization and de-ashing is partially green approach that has been recently studied by other researchers (Hoffmann et al. 1996; Ze et al. 2007; Wang and Yang, 2007; Mello et al. 2009; Shen et al. 2012).

In addition to several physico-chemical desulfurization methods, biodesulfurization using *Thiobacillus ferrooxidans* (ATCC 13984) was attempted for Assam coal (Dastidar et al. 2000). Results showed that the rate of pyritic sulfur removal was retarded at higher concentrations of ferrous and ferric ions that need to be controlled to maintain high rate of removal (Dastidar et al. 2000). In general, AMD can be remediated by two generic approaches i.e. active or passive treatment (Skousen et al. 1998; Wolkersdorfer 2008). Active treatment requires the use of alkaline materials (lime, limestone, hydrated lime, caustic soda, soda ash, etc.) or aeration to reduce acidity and precipitate metals, while passive (abiotic and biological) treatment allows chemical and biological processes to take place naturally in a controlled environment (Costello 2003; Johnson and Hallberg 2005; Sheoran and Sheoran 2006; Rios et al. 2008; Sheoran et al. 2010). A pilot plant consisting of sequential alkalinity producing (SAP) system coupled with biological processes was designed for treatment of AMD from coalmines of Meghalaya, northeast India (Baruah et al. 2010). The treatment system was found to be effective in reducing TDS, conductivity, sulphate and toxic elements.

In India, the Ministry of Environment and Forests (MoEF) plays a key role in regulating the environmental impacts of mining and in providing clearances for mining in forest lands. Some environmental protection measures include: prevention of pollution at source; ensuring polluters pay principle; protection

of heavily polluted areas and river stretches; encouragement of development and application of best available technological solutions; and involving the public in decision making (Mehta 2002). Under Mineral Concession Rules, 1960, it is required to specify the area indicating impact of mining activity on forest, land and environment, scheme for restoration of the area by afforestation, adoption of pollution control devices. According to Article 23 of the Mineral Conservation and Development Rules (1988), conditions for the abandonment of any mine need to be laid down by the mining company and provision of a plan for dealing with the environment, and is liable to protect and control pollution during the mining and post mining operations. The law further lays guidelines to restore or protect the flora of the area under the mining lease and nearby areas, technically, economically and environmentally.

The main environmental acts that impact the mining industry in India are: The Wildlife (Protection) Act, 1972 (amended in 1991); The Water (Prevention and Control of Pollution) Act, 1974 (amended in 1988); The Forest (Conservation) Act, 1980 (amended in 1988); The Air (Prevention and Control of Pollution) Act, 1981 (amended in 1988); and The Environment (Protection) Act, 1986 (with rules 1986 and 1987). Separate pollution standards for air quality and coal mine effluents has been laid down by Central Pollution Control Boards for coal mining in India (Tables 5,6).

In order to achieve sustainable utilization of coal resources integrated approach considering various aspects to reduce its environmental impacts is necessary. Proper implementation of regulatory rules and policies is as important as other management strategies to deal with environmental issues".

3.98 The scholars have recorded the following conclusions in their aforesaid paper :-

"Demand for coal in India is projected to increase dramatically in short to medium term. This would result in increased coal mining in different parts of India including northeast region.

Since, coals in northeast India is characterised by high sulfur and volatile matter contents that exhibits more potential harmful impacts, extra efforts are required to manage these coals to reduce its environmental impacts in the region. More studies need to be done in the field to assess the impact of coal mining on biodiversity, soil, air, surface and ground water in northeast India. Although several researches on desulfurization, de-ashing and demineralization techniques have been made, effort should be made to do further research on developing effective, low cost and environmental friendly technologies to clean coal and to use these techniques in the field. Further, it is essential to encourage and emphasize on alternative clean sources of energy to meet future energy demands”.

A copy of the said paper published on 25.05.2016, available in the internet, is made part of this Report as **Annexure 25 in Volume-II.**

3.99 The Commission, in the foregoing parts of this Report has discussed about the adverse effect on the environment because of the coal mining activities.

Adverse effect of coal mining as found by the Addl. PCCF(Central), Govt. of India

3.100 The Addl. PCCF(Central), Ministry of Environment and Forest in his report dated 23.07.2012, which has been made part of this Report as **Annexure 18** has also noticed the adverse effect of coal mining on the environment, wildlife as well as on the general eco-system in the area. The said report was in respect of the proposed Lekhapani OCP of NEC, CIL, in Margherita Sub-Division and hence the observations in the said report also apply to the coal mining activities in the other area of Tinsukia district, in

view of the similar topography of the mining areas. The relevant portion of the said report relating to the importance for the wildlife point of view is reproduced below :-

5. Whether forest area proposed for diversion is important from wildlife point of view or not:

The area proposed for diversion though does not form any part of National Park/Wildlife Sanctuary or Biosphere Reserve, but forms part of "Dehing - Patkai Elephant Reserve". A joint team of concerned CF, DFO and Sr. Wildlife Warden, O/o PCCF, Wildlife, Assam has inspected the area on instruction of Chief Wildlife Warden, Assam, given its comment (may be seen as an enclosure of proposal) that "elephants are not found to occur in this area and their movement is not noticed. Important faunal species inhabiting in the area includes large no. of species of butterflies, avifauna, reptiles and some mammals. No endangered/rare/unique species of flora and fauna is found in the area. The proposed diversion site is abandoned Jhum area and available fauna may move to the undisturbed and intact area of the Lekhapani Reserve Forest". PCCF, Wildlife, Assam in his letter dt. 22.7.2010 addressed to State Nodal Officer, FCA has agreed with the views/observation of above stated joint inspection team.

The lease hold area of NEC covers forest area on hilly terrain, criss-crossed by many rivulets flowing through valley, cutting across the coalfield. Mining activities specially open cast mines leads to total denudation; change in topography/drainage pattern and devastate the habitat of wild fauna specially terrestrial and aquatic. Mining operations, specially sound of operating heavy machines all the time, explosions, upcoming human activities, extending human habitation and thereafter anthropogenic factors altogether drive away major faunal species from the mine area and probably same thing has happened quite long back in the area, however the said intact forest belt beyond mining activities still bears good multi-tier natural vegetational cover, not commercially valuable but fairly good to constitute a habitat for many wild animals. Presence of varieties of bamboos and availability of plenty of water still makes it good habitat for elephants. At the same time elephants are long ranging animal, therefore incidences of elephants straying/visiting into coalfield areas cannot be discounted totally. The proposed OCP is over 20 km from the Upper Dihing East-Upper Dihing West Block between Golai-Powai Elephant Corridor as mentioned by "Aranyak" in their "Wildlife Conservation Plan in and around coalfields of NEC".

Presence of Langoor, Hoolock gibbon, leopard, leopard cat, wild boar, varieties of squirrel, civet, barking deer, together with large number species of avifauna (more than 50) including great hornbill, large green billed Malkhoa, rose ringed parakeet, spotted dove, crested serpent eagle, shrikes, oriole, hill myna, minivets, bulbuls, pigeon, owls, etc.) are confirmed in the report of Aranyak. More than 141 species of butterflies have also been recorded by Aranyak in the area. Therefore the area proposed for diversion and its surround still abounds in important faunal species and area can be considered important from wildlife point of view.

3.101 The Addl. PCCF(Central) in his report has also observed that the area being almost fully covered with

diverse vegetational cover, such type of area has to be kept severely restricted as per para 4.3.1 of National Forest Policy, 1988. It has also been observed that the affect of removal of trees will lead to landslips and heavy soil wash /erosion going into valleys, nallas and rivulets. The Addl. PCCF(Central) having regard to the situation described in the said report as well as the requirement of fuel and energy, more particularly coal, which is mostly used for thermal power generation and also that the development without having energy and fuel cannot be thought of till alternative sources of energy are available, recommended the said proposal subject to certain conditions put therein. The Commission also has already recorded the finding relating to the Acid Mine Drainage (AMD) from the coal mines and consequent pollution of water in the national streams etc. Experts have also opined that disturbance to the ecology and the adverse effect on the coal mining on the environment are much less in underground mining than in open cast mining project.

3.102 The Commission has also been asked to enquire into and fix responsibility upon Govt. officials of any department found involved in the commission of any illegal mining or any other illegal activities or abetment. The **Terms of Reference No. 5** is as follows :-

5. To enquire into and fix responsibility upon government officials of any department found involved in commission of any illegal


mining or any other illegal activity in commission or abetment of the aforesaid forest area.

Involvement of Govt. officers and Departments

3.103 The Commission has already recorded the finding that the Mines and Minerals Department of Govt. of Assam, Directorate of Geology and Mining and Geology, Assam; Forest and Environment Department of Govt. of Assam, the Forest Officers, PCBA, apart from District Civil and Police Administrations, are responsible for the illegal coal mining activities in the concerned forest areas.

3.104 The Commission for the purpose of recording the finding about the involvement or abetment, by any Govt. officer, in such illegal mining, is required to issue notice under Section 8B of the Commissions of Inquiry Act, 1952. Section 8B of the said Act requires giving a person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence if, at any stage of the inquiry the Commission (a) considers it necessary to inquire into the conduct of any person; or (b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry. Section 8B of the said Act is reproduced below:-

"8B. Persons likely to be prejudicially affected to be heard.-If, at any stage of the inquiry, the Commission.-



- (a) Considers it necessary to inquire into the conduct of any person; or
- (b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry, the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached."

3.105 The Commission, for the reasons already recorded herein above, and also keeping in view the period set by the Govt. of Assam for submission of report, could not comply with the requirement of Section 8B of the aforesaid Act and hence is unable to fix the responsibility upon any particular Govt. officer of the aforesaid departments.

3.106 As discussed above, the NEC, CIL still possessing the aforementioned coal mines in Digboi Forest Division and also mining coal till 2019 and 2020, illegally, without having any valid lease as required under the MMDR Act, and the 1960 Rules as well as in complete violation of the 1980 Act., apart from the 1891 Regulation, despite expiry of the thirty years lease in the year 2003. The Hon'ble Supreme Court in **T.N. Godavarman** (Supra) though way back on 12.12.1996 directed that all ongoing activity within any forest in any State throughout the country, without the prior approval of the Central Govt., must cease forthwith and all the State Govt. were directed to promptly ensure total cessation of all such activities forthwith, the NEC, CIL was allowed to use major portion of 98.59 Ha forest land in

Saleki PRF for Tikok OCP, for non-forest purpose, without having the approval as required under Section 2 of 1981 Act. The officers in Mines and Minerals Deptt Govt. of Assam as well as of the Environment and Forest Department of Govt. of Assam for whose negligence or acquiescence such illegal activities, despite the orders passed by the Hon'ble Supreme Court, was allowed to be continued, required to be identified and dealt with both under the Criminal Law as well as departmentally.

3.107 The Commission, while discussing the Terms of Reference No. 4 above, has noticed the communication dated 08.08.2018 issued by the SDO(Civil), Margherita accepting extraction of huge quantities of coal by illegal mining. Such mining activities, to the extent as indicated by the SDO(Civil), Margherita in his aforesaid communication, is not possible without the patronage of the officer of various departments of Govt. of Assam as well as of the District Administration and Assam Police, apart from some other persons. Allowing such illegal coal mining activities cause huge loss to the State exchequer.

Actions stated to have been initiated by the DFO, Digboi Forest Division

3.108 The Addl. PCCF(WL) and the Chief Wildlife Warden, Govt. of Assam, in his written response dated 12.04.2021 has narrated the actions stated to have been

initiated by the DFO, Digboi Forest Division, to stop the illegal coal mining, which are as follows :

ACTIONS INITIATED BY DFO DIGBOI: → 2000: The DFO, Digboi Division vide his No. 3/6-7 (c)/1463 dated 22.03.2020 reported to the DC, Tinsukia about encroachment done by encroacher in Saleki PRF for tea cultivation. The DFO stressed upon the fact that even after a gap of 23 years after Saleki was declared as PRF in 1976 and hearing was held by the FSO on 24.02.1977 and inspite of several requests made to him by the DFO, the said PRF was not declared as Reserve Forest. Further the DFO requested the DC to evict the encroachers in the greater interest of protection of Forest and environment. (Annexure-34) → 2003: It appears that at the very beginning itself DFO Digboi on 05/09/2003 had requested the GM, CIL(NEC) to submit the proposal of lease renewal within 15 days and also directed them to stop the mining operation until permission is obtained from Govt. of India. A reminder was also given to the GM, CIL in November 2003 to submit the proposal. It may be noted that CIL submitted the proposal on 28/11/2003 (However, as per the FC rules the proposal had to be submitted to the Nodal Officer by the user agency in Form A, but the proposal was submitted to the DFO in Form B) requesting for renewal of mining lease in a single proposal for – (i) 4 Sq. Mile lease (Ledo-Borgolai) - 1034.34 Ha. (ii) Namdang Coal Grant lease - 156.36 Ha. (iii) Tirap Coal Grant lease - 238.00 Ha. In another proposal on the same date, request for renewal of 4.48 Sq. mile lease (Lekhapani-Tipangpani Mining lease) of 1158.46 Ha. was also sent to the DFO, Digboi Division (in From B and addressed to the Digboi DFO rather than to the Nodal Officer) . → 2004: In January 2004, DFO Digboi requested to the WPO, UAC for survey of the above 4 lease areas. In June 2004, the WPO, UAC requested for coal mining maps etc. In August 2004, the Planning Officer II O/o PCCF requested the DFO Digboi with copy to the Nodal Officer, where the DFO Digboi, DFO Dibrugarh and DFO Sibsagar were directed to stop

mining in their areas and directed them to obtain permission from Govt. of India. On 07.09.2004 the DFO, Digboi Division wrote to the Nodal Officer stating the status of illegal mining and two proposal of NEC for renewal. He also informed that he already issued orders for stoppage of Coal mining without permission of the Central Government. As records are not available in this office, it is not known what action was taken at that point of time by the Nodal Officer and Regional CCF, Shillong under provisions of 9(1) of the FC Rules 2003. Further it appears that no formal proposal as per the FC(A) and FC Rules 2003 was submitted by the user agency till 2012. The WPO, UAC submitted detailed survey proposal dated 15 September 2004 with copies marked to the PCCF and CCF (R & WP) and further the Range officer Lekhapani Range was asked by DFO Digboi to submit a list of enumeration of trees and to prepare list of compensatory afforestation. 27 | Page

2005: On 6 January 2005, the Range Officer Lekhapani Range submitted the tree enumeration and estimate for compensatory afforestation plantation with details of the mining lease to DFO Digboi. The DFO forwarded the renewal proposal of the CIL applying for renewal of following lease areas to the CF, EAC Jorhat, on 10.06.2005. (i) 4 Sq. Mile lease (Ledu Borgolai) - 1034.34 Ha. (ii) Namdang Coal Grant Lease - 156.36 Ha. (iii) Tirap Coal Grant Lease - 238.00 Ha. On 15 June 2005, the DFO Digboi directed the Range Officer Lekhapani Range to stop mining in reference to the letter of Nodal Officer dated 10/06/2005. The Range Officer Lekhapani Range accordingly intimated the GM (NEC) to stop mining on 20/06/2005. Further on 24th June 2005, DCF Shillong requested PCCF Assam to direct DFO to submit detailed report on violation of FC(A) and also asked a report within 15 days to be submitted to enable him to make site inspection and to submit a report to the Ministry. [This action of the O/o Regional CCF appears to be in stark contravention to the provisions of the rule 9(1) of FC Rules 2003 as the onus of enforcement of the FCA 1980 lies squarely on the Regional Office as per the notification of MoEF dated 01/10/2003. It appears all actions were left on the DFO

Digboi for implementation of the FC(A) 1980 by the Nodal Officer and Regional Office Shillong. Further in contravention of the rules, the Nodal officer on 11/07/2005 asked DFO Digboi whether any Offence Report was filed against the user agency and whether any approved mining plan approved by IBM Nagpur was submitted by user agency.] It is seen that the Nodal Officer has written to the DFO to take an action under the FC(A) for which the DFO is not even empowered under the law. Further the fact that a formal proposal was not submitted to the Nodal Officer under Rule 6(1) of the rules directly by the user agency and this aspect appears to be conspicuously absent in all communications of the Nodal Officer and the Regional Office. Further it was the onus of the user agency to submit proposal under form A to Nodal Officer and it was the onus of the Nodal Officer to examine the proposal and forward to the Govt., or in case of any incompleteness, revert back to the User Agency. [On order of the Nodal Officer, the DFO summoned the then GM(NEC) to appear before the court of Forest Authorized Officer and DFO Digboi Division on 15th July 2005 to give material evidence for prosecution against the violation of FC(A) 1980 (the provision of the Authorized Officer is under section 49 AFR vide Govt. of Assam office memorandum no. FRM.44/94/13 dated 21 December 1994). This provision of section 49 in case of Saleki PRF can only be applied in respect of a Forest Produce defined under section 3 (4) (a)(b) but coal as Forest Produce is not covered under these sections if not found within a notified RF. Therefore, application of the powers of Authorized Officer for the FC(A) 1980 appears to be going overboard and beyond one's statutory authority vested in law upon the office of the DFO Digboi, whereas the action was actually required to be taken under section 9(1) of FC Rules 2003 by the Regional CCF Shillong. On the 4th October 2005, DFO submitted a report to the CF on the violation of FC(A) 1980. On enquiry by the DFO, the CIL submitted a report on 3rd October 2005 stating that they have not broken any new area for mining since December 2002 till date. Further on 31st October 2005, the CF, EAC

Jorhat wrote to the Nodal Officer to initiate action to be taken in a matter of violation of FCA 1980. Further on 3rd November 2005 the CF, EAC forwarded a renewal proposal of 4 and 4.8 sq mile to the Nodal Officer. On 20/12/2005, the Nodal Officer wrote to the CCF Wildlife enclosing the proposal to furnish his comments. 28 | P a g e

— 2006: The CF Wildlife informed DFO Digboi that Senior Wildlife Warden shall be visiting the site from 4th July to 5th July 2006. Further the Range Officer Lekhapani on July 2006 requested the GM, NEC to stop all mining activities in response to which the CIL authorities intimated that no new area was broken. —

2007: On 01/11/2007, the DFO Digboi asked the CGM, CIL that the period of mining lease expired on 2003 and their application for renewal has been sent to higher authority for necessary action. Further he informed that any lease holder should leave the lease area on expiry of lease period, but it was noticed that neither they perused the matter nor left the lease areas. Further the CGM, CIL was asked for an explanation as to why they are still occupying the lease area [However, no action was taken under Rule 9 (1) of FCR 2003]. —

2008 to 2011: The DFO Digboi forwarded the diversion proposal of Namdang OCP of 4.80 Ha. to the CF, EAC on 11/05/2010. The DFO, Digboi Division vide his letter No. 5/6-7/2649 Dtd. 15.05.2010 requested the DC, Tinsukia again to instruct the FSO for early submission of Final Report of hearing for declaration of the Saleki PRF into Reserve Forest. (Annexure-35) —

2012: The DFO Digboi on 9th April 2012 reported to the district administration of Tinsukia regarding illegal activities of coal mining in his area. His various correspondences dated 9th May and 14th June 2012 may be seen in this regard. On 04/07/2012, the Addl. PCCF Regional Office MoEF inspected the proposed site on 4th and 5th July 2012. On 27th August 2012 the CGM, CIL submitted a proposal of 98.59 Ha. of Tikok OCP in Form A to the Nodal Officer. Then, on 29th August 2012, the Nodal Officer forwarded the proposal to the CCF(T) with copy to the CF, EAC Jorhat and DFO Digboi. On 1st October 2012, DFO Digboi once again requested the CGM, CIL to stop

Open Cast Mining. This office has no record as to what action was initiated by the CCF, MoEF, Shillong after his visit in 2012; and whether any action was initiated under Rule 9 (1) of the FC Rules 2003. The DFO Dibgoi Division vide his No. 3/6-7 (c)/encroachment/3983 dated 07.05.2012 informed the DC that the Hon'ble Minister, Environment & Forests, Govt. of Assam during his visit to Digboi Division on 01.05.2012 enquired about the progress in regard to declaration of Saleki PRF as Reserve Forest. The DFO also requested the DC to take early step for submission of the Final Report for constitution of the Saleki PRF as Reserve Forest. (Annexure-36) – 2013: On 2nd January 2013 the CCF(T) gave a detailed report to the Nodal Officer intimating that there was FCA violation over 591.72 Ha. of which an area of 163.11 Ha. has been broken up after the enactment of FCA 1980 and 428.61 Ha. prior to 1980. The CCF(T) also pointed out in his letter that the user agency has failed to submit the required proposal as per guidelines. "Further the CCF(T) UAZ informed from time to time to the NECIL authorities of violation of FCA and warned them of its consequences and asked them not to commit further violation, but failed to effect stoppage of non-forestry activities within the mining leased out area which was totally under their control with physical possession and had started operational activities." In February 2013, the Govt. of Assam forwarded the proposal for diversion of 98.59 Ha. forest land of Tikok OCP of Saleki PRF to the CCF (Central) MoEF NE Regional Office, Shillong. During April 2013, the said proposal was also submitted to the ADG Forest, MoEF, Govt. of India, New Delhi. Further, the DFO again wrote to the CGM, NEC issuing a show cause about his continued mining operation in violation of the FCA. The CGM reported to the DFO during October 2013 stating that NEC, CIL applied for diversion of 98.59 Ha. of forest land for Tikok OCP afresh in 2012 as directed by the CCF (Central) Shillong during his inspection of the NEC in 2012. Therefore it apparent that no action under Rule 9 (1) of the FCR 2003 was initiated even after the visit of Regional CCF who was actually authorized under the law to act in this matter. 29 | P a g e – 2014: The GM, CIL

vide his letter dated (23/12/2013) appealed before the DFO to revoke the show cause, which was issued to him, vide letter dated (12/04/2013) in the light of post facto approval accorded by the Govt. of India on the recommendation of Forest Appraisal Committee (FAC) held on (10/06/2013), the DFO requested the CF, EAC to withdraw the show cause notice. The CF, EAC vide his letter dated 13/02/2014 informed that the DFO may withdraw the show cause notice. The Range Officer Lekhapani asked the GM, NEC again to stop the operation of illegal open cast mining, and also lodged an FIR dated 22/10/2014 with the Lekhapani Police Station in illegal mining and also seized one excavator (JCB). → 2015 to 2016: During 2016, the Range Officer Lekhapani Range filed several FIRs in the Lekhapani Police Station against illegal coal mining. [it is not understood under what authority the Divisional Forest officials filed FIR's in forest destruction or coal mining. If it was the case of forest destruction the matter would have been better dealt with under section 49 of AFR 1891 for felling of trees and removal of forest produce under section 3 (4)(a) of the regulation. However as coal in a PRF is not a forest produce and the ownership of the land and is not vested on the Forest Department. The action of FIR etc. was probably the responsibility of the district administration, who is still the actual owner of the land] → 2017: The DFO Digboi had written to DC Tinsukia vide letter dated 07/11/2017 apprising the DC regarding illegal activities such as coal mining, felling of trees in the RF's and PRF's including Saleki PRF along the Assam-Arunachal border and requesting to hold joint meeting of District Administration, police administration of Tinsukia and Digboi forest division along with their counterparts of Arunachal Pradesh to work out strategies to control such illegalities. Another letter was also issued to SP Tinsukia in similar above lines on 27/11/2017. FIR was lodged in 2017 with the Lekhapani Police Station for the illegal mining of coal from Tipong RF, Tirap and Saleki PRF. → 2018: The DFO vide letter dated 20/01/2018 requested the SP Tinsukia to pass necessary instruction to the O/C concerned to investigate and take

necessary action against the culprits to stop illegal coal mining in other RF's like Namphai, Paharpur, Tipong and Lekhapani RF. A joint meeting was held on 06/02/2018 at the conference hall of Dehing guest house Margherita to discuss on the illegal coal mining taking place with DC Tinsukia, SP Tinsukia, DC Changlang (AP), SP Changlang (AP) representatives of NEC, CIL, SDO(C), Margherita and DFO Digboi Division. FIR was lodged with the Lekhapani Police Station on 20/09/2018 against illegal coal mining of Saleki PRF (MoM enclosed). – 2019: The DFO vide his letter dated 24/01/2019 informed the CF, EAC about the challenges faced by the forest officials in preventing illegal coal mining and urged necessity of coordinated action with the concerned line departments. The DC Tinsukia vide his order dated 16/05/2019 constituted an area wise team under the leadership of forest officials and other officials of police, sale tax, transport etc. for prevention of illegal transportation of coal. The Range Officer Jagun Range arrested two persons and seized one excavator (Falkland) from the possession of the arrested persons and produced them before the court of SDJM Margherita and Offence Report was drawn. The CF, EAC vide letter dated 29/06/2019 submitted an interim report on illegal mining in Jagun Range to the CCF(T) UAZ. [It is to be noted that section 40, 41 AFR, 1891 is not applicable in case of coal]. The DFO vide his letter dated 20/08/2019 asked the CGM, NE CIL to apprise the adherence of the FCA 1980 and recommendations of the FAC and asked not to continue mining operation in Tikok OCP. The DFO vide letter no. dated 03/08/2019 informed the Nodal Officer about the status of the illegal coal mining in detail under his division. Several FIR's were lodged with the Lekhapani PS in connection to illegal coal mining in Lekhapani and Saleki PRF. Offences were drawn against offenders for illegal transportation of coal and 30 | P a g e vehicles with coal were seized. Offence report against the CGM, NEC CIL Margherita was drawn under no. LP8/201920 for illegal collection and storage of 5297.0 stack cu-m (equivalent to 4810 metric tonnes) of coal at Tikok colliery depot by the CIL Margherita. The Range Officer Lekhapani vide letter dated 12/11/2019 requested SDM

Margherita to impose section 144 Cr Pc to control illegal coal mining. — 2020: The DFO vide letter dated 21/04/2020 demanded the GM, NEC CIL to deposit an amount of Rs. 43,24,85,798 online in the CAMPA account for normal and penal compensatory afforestation etc. An amount of RS. 2,17,81,387.00 was realized by the sale of 3904.30 tonnes out of 5297.0 stack cu-m (4810 ton) vide Try. Chalan No. 696 dated 28/04/2020. The matter for selling balance 906.46 tonnes seized coal has been taken up with the Hon'ble SDJM Margherita vide letter dated 02/06/2020. The RO Lekhapani Range of Digboi Division lodged several FIRs (FIRs dtd. 23.10.2017, 04.12.2017, 20.09.2018, 05.12.2018, 19.01.2019, 16.02.2019, 16.02.2019) with Lekhapani Police Station informing about illegal mining and removal of coal that took place under Tipong RF & PRF, Tirap RF & PRF, Saleki PRF and requested the OC to investigate the matter and apprehend the culprits involved. The RO Lekhapani Range also lodged an FIR dated 25.06.2019 with the Margherita Police Station informing about illegal collection of coal from Salaeki PRF by some miscreants and requested the OC to investigate into the illegalities and take necessary action against the culprits. The RO Jagun Range of Digboi Forest Division caught red handed two miscreants while mining and collecting coal inside Tinkupani RF on 01.06.2019. One excavator deployed in the said illegal mining operation was seized too from their possession. Offence Report vide No. JN/3/2019-20 was filed in the Hon'ble Court of the SDJM, Margherita dated 05.06.2019. The RO Digboi Range under Digboi Division arrested four persons and seized 4 trucks loaded with coal on 20.04.2019 and submitted offence Reports in the Hon'ble Court of SDJM, Margherita vide OR No. DG/11 of 2019-20, DG/12, DG/13 and DG/14 of 2019-20. The RO Jagun Range under Digboi Division detected on 04.10.2019 two truck loaded with illegal coal and submitted OR to the SDJM Margherita vide OR No. JN/7 and JN/8 dated 04.10.2019. On 24.10.2019 the RO Lekhapani Range accompanied the CCF (C) Regional Office, MoEF & CC, Shillong and the Nodal Officer (FCA), O/o the PCCF & HoFF, Assam while visiting Tikok OCP

(98.59) Ha. area. The team noticed illegal coal mining taken place in the said sites. Subsequently, they inspected Tikok colliery Deport Yard under CIL, Margherita and detected 5297 stack M3 of illegal coal. The said quantity of coal was seized and offence report submitted to the Hon'ble Court of the SDJM, Marghetira vide OR No. LP/8 Dated 05.11.2019.

The Commission, due to late submission of the written response (submitted on 12.04.2021) by the Addl. PCCF(WL) and Chief Wildlife Warden, Assam could not verify the aforementioned actions stated to have been initiated by the DFO, Digboi Forest Division.

Withholding important and relevant information from the State Board for Wildlife :

3.109 The Govt. of Assam, Forest Department, vide notification dated 17.09.2002, reconstituted the Wildlife Advisory Board, in exercise of the power conferred under Section 6 of the 1972 Act. The Commission has not been apprised about subsequent reconstitution, if any, despite the specific queries made.

3.110 Section 6 of the 1972 Act provides for constitution of Wildlife Advisory Board by the State Govt., consisting of the following Members. The term of office of the Members, who are the officers of the State Govt. and as given in clause(g) and manner of filling vacancies among them shall be such as may be prescribed :

- (a) the Minister in charge of forests in the State or Union territory, or, if there is no such Minister, the Chief Secretary to the State Government, or, as the case may be, the Chief Secretary to the Government of the Union territory, who shall be the Chairman;
- (b) two members of the State Legislature or, in the case of a Union territory having a Legislature, two members of the Legislature of the Union territory, as the case may be;
- (c) Secretary to the State Government, or the Government of the Union territory, in charge of forests;
- ¹[(d) the Forest officer in charge of the State Forest Department by whatever designation called, *ex officio*;]
- (e) an officer to be nominated by the Director;
- (f) Chief Wild Life Warden, *ex officio*;
- ¹[(g) officers of the State Government not exceeding five;
- (h) such other persons, not exceeding ten, who, in the opinion of the State Government, are interested in the protection of wild life, including the representatives of tribals not exceeding three.]

3.111 Sri Bonkim Sarma, Conservator of Forest (Wildlife), Assam in his statement has stated that Tikok OCP is within 10 Km of Dihing Patkai Wildlife Sanctuary and hence in the deemed/default Eco-Sensitive Zone. The DFO, Digboi Forest Division in his statement recorded by the Commission has also admitted that in the absence of any notification declaring Eco-Sensitive Zone of Dihing Patkai Wildlife Sanctuary, 10 km radius is the deemed/default Eco-Sensitive Zone. The Addl. PCCF(WL) and Chief Wildlife Warden in his written response dated 12.04.2021 has also admitted that the Eco-Sensitive Zone under the provision of 1980 Act having not notified, 10 km radius of Dihing Patkai Wildlife Sanctuary is the deemed/default Eco-Sensitive Zone at least till 11.12.2018. His contention that in view of the **Order dated 11.12.2018 passed by the Hon'ble Supreme Court in WP(C) No. 202/1995 (T.N. Godavarman Thrumulpad –**

vs- Union of India)., 10 km radius of eco-sensitive zone for Dihing Patkai Wildlife Sanctuary ceased to exist, cannot be accepted in view of the order passed by the **Hon'ble Supreme Court on 04.12.2006 in WP(C) No. 460/2004 (Goa Foundation –vs- Union of India)**. The Central Govt. as well as the Govt. of Assam, as it appears from the reports etc. discussed in this Report, have also accepted 10 km radius of Dihing Patkai Wildlife Sanctuary as the deemed/default eco-sensitive zone till the required notification under 1986 Act is issued.

3.112 No notification, declaring Eco-Sensitive Zone of the said sanctuary, as required under the 1986 Act, has been issued till date. The said sanctuary was notified on 19.06.2004. Dihing Patkai Elephant Reserve was notified on 19.04.2003. Sri Bonkim Sarma has also produced the minutes of the relevant meetings of State Board for Wildlife, held under the Chairmanship of the Chief Minister, on different dates, during which the proposal of the NEC, CIL for diversion of forest land for Lekhapani OCP (235 Ha), Tikok Extension OCP (72 Ha) and diversion of 98.59 Ha in Saleki PRF for Tikok OCP, submitted on 27.08.2012, were considered. In none of the minutes of the meeting held on 21.10.2014 and 22.02.2018 there is any indication about consideration of the factual situation relating to the admission by NEC, CIL that part of the forest land has already been used for non-forest purpose, even before submission of such proposal on

27.08.2012. It appears that the State Board for Wildlife in its 10th Meeting held on 22.02.2018 recommended the proposal for diversion of 98.59 Ha of forest land in Saleki PRF for Tikok OCP subject to the condition suggested by the expert committee, by observing that the site is found to be located just on the boundary of 10 Km radius from Dihing Patkai Wildlife Sanctuary, which is not the correct position, as the forest officials of Govt. of Assam found the same within 10 Km radius.

Copies of the minutes of the meeting of the State Board for Wildlife held on 21.10.2014 and 22.02.2018 are made part of this Report as **Annexure 26 & 27**, respectively.

3.113 In the aforementioned proceedings of the State Board for Wildlife though it has been stated that 98.59 ha of forest land in Saleki PRF for Tikok OCP is located just on the boundary of 10 km radius from the Dihing Patkai Wildlife Sanctuary, which must have been recorded based on the inputs given by the concerned forest officials, the map of Dihing Patkai Wildlife Sanctuary showing features within 10 km radius, which is 10 km buffer line, reveals that 47.46 ha of forest land, out of 98.59 ha, of Tikok OCP falls within 10 km buffer of Dihing Patkai Wildlife Sanctuary. It, therefore, appears that, consideration of the proposal for diversion of aforesaid forest land for non-forest purpose, taking the entire 98.59 ha of forest land on the boundary of 10 km radius from Dihing Patkai Wildlife Sanctuary, is based on wrong

of the 98.59 Ha forest land in Saleki PRF within the deemed/default Eco-Sensitive Zone of Dihing Patkai Wildlife Sanctuary, which led to the recommendation by the State Board for Wildlife for use of the said forest land for non-forest purpose, taking that the said land is on the boundary of 10 Km radius from the Dihing Patkai Wildlife Sanctuary. Hence, a detailed inquiry / investigation to find out the officers responsible in that regard needs to be conducted, so that appropriate legal action could be taken against them. The Commission, despite the Terms of Reference No. 5, could not do so due to the delay and / or non-submission of the required information by the concerned departments, which resulted in non-issuance of the notice under Section 8B of the Commissions of Inquiry Act, 1952

3.115 The proposal submitted by the Govt. of Assam, for use of 98.59 ha of the forest land for non-forest purpose, was considered by the Standing Committee of National Board for Wildlife in its 54th meeting held on 18.07.2019. The Standing Committee recommended constitution of an Inspection Team comprising of Professor R. Sukumar; representative from the Wildlife Division and State Chief Wildlife Warden, for site inspection and to submit the report. The Standing Committee was also given the impression that the said land is located at 10 Km radius from the boundary of Dihing Patkai Wildlife sanctuary, though in the written response submitted on 29.12.2020 by the Environment and

Forest Department, Govt. of Assam, supported by an affidavit by the Addl Secretary, in response to the Query No. XXXVIII has stated that *"the distance of 98.59 Ha land for Tikok Open Cast Coal Mining Project from the boundary of Dihing Patkai Wildlife Sanctuary is 9.192 Km"*. As discussed above, the above statement in response to aforementioned query is also not correct as almost half of the land measuring 98.59 ha in Saleki PRF for Tikok OCP, proposal for diversion of which land for non-forest purpose was submitted, is within the buffer zone of Dihing Patkai Wildlife Sanctuary.

Copy of the relevant portion of the minutes of 54th meeting of the Standing Committee of National Board for Wildlife held on 18.07.2019 is made part of this Report as **Annexure-28** in **Volume-II**

3.116 The Standing Committee, National Board for Wildlife in its 56th meeting, held on 17.12.2019 deferred consideration of the said proposal. In its 57th meeting, held on 07.04.2020, the Standing Committee has considered the aforementioned proposal in two parts, one for making necessary recommendation for approval in respect of already broken up area and the other in respect of unbroken area. In the said meeting the proposal for approval of broken up area has been recommended, while deferring the decision in respect of un-broken area. The said Standing Committee in its aforesaid proceeding, also did not recommend taking of any penal action against anyone, either of the Environment and Forest Department or of Mines and Minerals Department of Govt. of Assam or against NEC, CIL.

Copies of the relevant portion of the minutes of 56th and 57th meetings of the Standing Committee of National Board for Wildlife held on 17.12.2019 and 07.04.2020, respectively, are made part of this Report as **Annexure-29 & 30** respectively in **Volume-II**.

3.117 The Standing Committee of National Board for Wildlife, however, in its 58th meeting held on 03.07.2020 recommended that mining activities by the NEC, CIL should be stopped immediately, while deferring the consideration of the proposal till further discussion with the CIL. The relevant portion of the minutes of the said meeting is reproduced below :

" Agenda Item No.2

(Action Taken Report)

54.4.3 Proposal for use of 98.59 ha of reserve forest land from Saleki proposed reserve forest which is a part of Dihing Patkai Elephant Reserve for Tikok OCP coal mining project by North-Eastern Coal Field, Coal India Limited, Assam State.

The Member Secretary briefed the Standing Committee on the decision taken in the 57th meeting. He stated that the matter was considered by the Standing Committee in its 57th meeting which decided that the user agency should submit the following for further consideration:

(a) A site specific Mine Reclamation Plan prepared by Coal India Limited in consultation with the Assam State Forest Department.

(b) Feasibility report for underground mining for the unbroken land, compliance report regarding fulfillment of all other conditions as recommended in the meeting held on 21st January 2020.

The Member Secretary also stated that no such reports and reclamation plan for already broken up area have been received from the project proponent or State Government. He also stated that the matter is sub-judice

in the Hon'ble Supreme Court and the Hon'ble High Court of Assam.

The State Chief Wild Life Warden stated that out of 41.39 ha unbroken are, 16.0 ha has already been broken by Coal India Limited leaving only 25.0 ha unbroken area.

After discussion, the Standing Committee recommended that the mining activity should be immediately stopped and decided to defer matter till further discussions with Coal India Limited."

Copy of the relevant portion of the minutes of 58th meeting of the Standing Committee of National Board for Wildlife held on 03.07.2020 is made part of this Report as **Annexure-31** in **Volume-II**.

3.118 In the 59th meeting of the Standing Committee of National Board for Wildlife held on 05.10.2020, a decision was taken to send a two members fact finding team comprising of an official each from the Ministry and Assam Forest Department and submit a factual report within a month. It has also been reiterated that the mining of coal, in terms of the earlier decision, shall remain completely stopped by the NEC, CIL over the proposed 98.59 ha of forest land.

Copy of the minutes of the 59th meeting dated 05.10.2020 is made part of this Report as **Annexure-32** in **Volume-II**.

3.119 It was incumbent upon the concerned officers of the Forest, Environment and Climate Change, Govt. of India to make necessary verification of the proposal before placing the same before the Standing Committee of the National Board for Wildlife.

Non-initiation of penal action by the authorized persons for violation of the provisions of 1980 Act.

3.120 Sub-Rule (1) of Rule 9 of the 2003 Rules empowers the officers, not below the rank of Conservator of Forests, authorized by the Central Govt. to file complaints against person(s) prima-facie found guilty of offence under 1980 Act or the violation of Rules made thereunder, in the Court having jurisdiction in the matter. The said Rule also empowers the concerned forest officers having territorial jurisdiction over the forest land in respect of which the offence is said to have been committed under the aforesaid Act and the Rules. The officer authorized by the Central Govt. as well as the concerned forest officers having territorial jurisdiction over the forest land, therefore, are empowered to file complaint before the appropriate court of law for violation of the provision of the 1980 Act and the Rules framed thereunder. Before filing the complaint an opportunity of being heard is, however, required to be given to such persons or officers or authorities against whom the allegations of offence exist. Such persons /officers/authorities then may file the show-cause in writing within sixty days.

3.121 The Ministry of Environment and Forest, Govt. of India, issued notification dated 01.10.2003 authorizing the Chief Conservator of Forests, Regional Officer, Ministry of Environment and Forest, having jurisdiction over the forest land in respect of which any offence under 1980 Act is

alleged to have been committed, to file complaint against persons prima-facie found guilty of such offence, in the court having jurisdiction in the matter.

A copy of the said notification dated 01.10.2003 issued under Rule 9(1) of the 2003 Rules by the Ministry of Environment and Forest, Govt. of India authorizing the Chief Conservator of Forest, Regional Office, Ministry of Environment and Forest to file complaint against the persons prima facie found guilty of offence under the 1980 Act is made part of this Report as **Annexure-33** in **Volume-II**.

3.122 The aforesaid notification was amended by the MoEF & CC, Govt. of India, on 17.11.2020 authorizing the officers not below the rank of Conservator of Forests in the integrated regional offices of Ministry of Environment and Forests and Climate Change, having jurisdiction over the forest land in respect of which any offence under the 1980 Act is alleged to have been committed, to file complaints against such persons, authority, organization prima facie found guilty of offences under the said Act or the violation of the Rules made thereunder, in the court having jurisdiction in the matter.

3.123 The Addl. PCCF (C), being the officer authorized under Rule 9(1) of the 2003 Rules, in his aforesaid report dated 23.07.2012 having noticed the violation of provision of the 1980 Act, ought to have immediately initiated penal action, which, however, has not been done.

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3.124 The Commission shall now proceed to discuss the **Terms of Reference No. 6**, which reads as follows :

6. To enquire into and suggest measures for recovery of loss, if any, caused due to unlawful coal mining activity under the jurisdiction of Digboi Forest Division, either in the form of rent, royalty, penalty, land arrears or tax in terms of Section 21(5) of the Mines and Minerals (Development & Regulation) Act, 1957 or under any other law in force during commission of offence of illegal mining or commission of any other illegal activity.

3.125 The Commission in the foregoing part of this report has discussed about the illegal coal mining activities by NEC, CIL since the year 2003 and also by some other persons/organizations, who could not be identified. The fact remains that such illegal coal mining activities by un-identified persons / organizations are still going on. The extent of the illegal coal mining has already been noticed by the Commission.

Penalty prescribed under Section 21(5) of MMDR Act.

3.126 The Commission has been asked to enquire into and suggest the measures for recovery of loss etc., as penalty, in terms of Sub-Section (5) of Section 21 of the MMDR Act, which is reproduced below :

21. Penalties.— (1) Whoever contravenes the provisions of sub-section (1) or sub-section (1A) of section 4 shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area.

(2) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five lakh rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to fifty thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

(3) Where any person trespasses into any land in contravention of the provisions of sub-section (1) of section 4, such trespasser may be served with an order of eviction by the State Government or any authority authorised in this behalf by that Government and the State Government or such authorised authority may, if necessary, obtain the help of the police to evict the trespasser from the land.

(4) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority specially empowered in this behalf.

(4A) Any mineral, tool, equipment, vehicle or any other thing seized under sub-section (4), shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub-section (1) and shall be disposed of in accordance with the directions of such court.]

(5) Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence under sub-section (1) shall be cognizable."

3.127 The mining of coal by NEC, CIL from the year 2003 being contrary to the MMDR Act, 1980 Act and Rules framed thereunder, as well as 1891 Regulation, the State Government, under Sub-Section (5) of Section 21 of the MMDR Act may recover the price of the mineral i.e the coal extracted and disposed of by the illegal miners. The State Government may also recover from the NEC, CIL the rent, royalty or tax for the period during which the NEC, CIL occupied the land without any valid lease and also without obtaining the prior approval as required under 1980 Act.

Details of royalty etc paid by NEC, CIL from 2003-04 to 2019-2020

3.128 The NEC, CIL in the written response filed before the Commission has enclosed the details of the royalty, tax, levies etc. paid by them from the years 2003-04 to 2019-20. **Figure 39** is the details of the royalty and tax etc., as shown to have been paid by NEC, CIL.

India, requested the Indian Institute of Forest Management to examine the methodology adopted by 2006 NPV Expert Committee for NPV (Net Present Value) estimation and to suggest appropriate amendment and recommend revised rates of NPV and accordingly the following NPV rates (Rs. Lakh/Hectare) was proposed.

Box 1 – Range of existing, WPI-adjusted and proposed NPV rates (Rs. Lakh / Hectare)

Canopy cover class		Very Dense Forests (VDF)	Moderately Dense Forests (MDF)	Open Forests (OF)	Less than 10% Canopy (LTF)
Range of NPV Rates (₹ Lakh/ hectare)	Existing	6.26 – 10.43	5.63 – 9.39	4.38 – 7.30	4.38 – 7.30
	WPI Adjusted Existing Rates	9.17 – 15.29	8.25 – 13.76	6.42 – 10.70	6.42 – 10.70
	Proposed	14.37 – 55.55	13.41 – 45.68	9.87 – 26.97	5.65 – 24.86

3.131 The Commission has also been apprised by NEC, CIL that the DFO, Digboi Forest Division vide letter No. B/G-64/CIL/2020/1372 dated 21.04.2020 has asked the NEC, CIL to deposit an amount of Rs. 43,24,85,798.00 towards the penalty, which includes normal NPV (Net Present Value) and penal NPV, for the area of 98.59 ha of forest land, the break-up of which is as under :-

1. NORMAL NPV For area of 16.11 ha	=	Rs.	9,25,76,010.00
2. PENAL NPV :			
(a) For 57.20 ha	=	Rs.	17,18,74,560.00
(b) For 16.00 ha	=	Rs.	1,80,78,800.00
3. Compensatory Afforestation for Normal NPV (Area : 5.11 ha)	=	Rs.	8,90,93,379.00
Overhead Cost	=	Rs.	4,45,46,689.00
4. Compensatory Afforestation for Penal NPV (Area : 4.5 ha)	=	Rs.	71,52,165.00
Overhead Cost	=	Rs.	35,76,082.00
5. Compensatory Afforestation of 6.3 ha	=	Rs.	37,58,742.00
Overhead Cost	=	Rs.	18,79,371.00
TOTAL	=	Rs.	43,24,85,798.00

The Commission has been informed by the NEC, CIL that the process for payment of the aforesaid amount is on.

A copy of the said communication dated 21.04.2020 issued by the DFO, Digboi Forest Division directing the NEC, CIL to deposit an amount of Rs. 43,24,85,798/- towards the penalty, is made part of this Report as **Annexure 34 in Volume-II**.

Recovery of the Net Sale Proceed of illegally mined coal from NEC, CIL

3.132 The Commission has obtained the coal production figure from the NEC, CIL in respect of each of the collieries from 2003-04 to 2020-21, which has already been mentioned in foregoing part of this report. On being asked the NEC, CIL has also furnished the net sale proceed received by them for disposal of the coal from the year 2003-04 to 2019-20, details of which, as furnished by the NEC, CIL on 31.03.2021, is in Figure 40 below :-

✓

**STATEMENT SHOWING SALE OF COAL FOR LAST 17 YEARS
OF NORTH EASTERN COALFIELDS, COAL INDIA LIMITED**

(Rs. in Lakhs)

SL No.	F.Y.	NET SALE OF COAL
1	2003-04	12,450.51
2	2004-05	9,155.42
3	2005-06	23,169.81
4	2006-07	24,380.23
5	2007-08	23,546.33
6	2008-09	28,439.26
7	2009-10	40,318.20
8	2010-11	41,375.68
9	2011-12	41,586.11
10	2012-13	35,224.77
11	2013-14	31,424.81
12	2014-15	38,198.80
13	2015-16	16,314.66
14	2016-17	30,639.68
15	2017-18	36,292.97
16	2018-19	31,539.07
17	2019-20	23,157.18

Note: Net Sale Value is exclusive of Taxes / Levies.

Pranav
21.9.2021.
Area Finance Manager,
NEC, Margherita

Fig. 40

3.133 Sub-Section(5) of Section 21 of the MMDR Act having empowered the State Govt. to recover the price of the disposed of mineral raised by the NEC, CIL, without any lawful authority, from the year 2003-04 till date, the State Govt. need to take required steps, in accordance with law, to recover the aforesaid net sale proceed amounting to Rs.

4,87,213.49 Lakhs from the NEC, CIL, as they received the said net sale proceed by illegal mining.

3.134 The Commission is of the view that, non-exercise of the powers conferred on the State by the relevant provisions of the MMDR Act to take punitive and coercive actions against the persons involved in illegal raising, storage and transportation of coal is the main reason for continuance of illegal mining including illegal rat-hole mining of coal, which led to huge loss to the State exchequer. Every power conferred on any person under any statute always cast a duty on such person to exercise such power to achieve the intent and purpose of the statute. State is thus duty bound to exercise all the powers conferred on it under the relevant provisions, including Sub-Section (5) of Section 21 of the MMDR Act. From the materials placed before the Commission, it appears that the powers conferred on the State, under Sub-Section(5) of Section 21 of the MMDR Act, has not been exercised even in a single instance. The Commission takes note of the same with great concern.

3.135 **Terms of Reference No. 7** relates to making an inquiry and to suggest measures to be taken for restoration, rehabilitation and reclamation of areas damaged due to illegal coal mining activities as well as the cost to be incurred for such purpose. The said Terms of Reference reads as follows :-

✓

7. To enquire into and suggest measures to be taken for restoration, rehabilitation and reclamation of areas damaged due to illegal coal mining and ancillary activities, if any and approximate amount of costs to be incurred for such purpose.

3.136 The Commission has already recorded the finding about the illegal coal mining activities carried out by NEC, CIL from the year 2003 onwards. Such mining activities being illegal, the NEC, CIL has to bear the expenses for restoration, rehabilitation and reclamation of the areas damaged due to such illegal coal mining activities.


Non-closure of Mines properly / as per Mine Closure Plan

3.137 There are six mines / projects under operation/implementation of NEC, CIL, namely, Tirap OCP, Tikok OCP, Tikok Extension OCP, Lekhapani OCP and Tipong Under Ground mine. The production in Tikok Extension OCP and Lekhapani OCP is yet to be commenced. The production in Tikok OCP and Tirap OCP has been stopped from 24.10.2019 and 03.06.2020, respectively. The production in Tipong Under Ground mine was discontinued on 29.03.2018. These three mines, namely Tikok OCP, Tirap OCP and Tipong

Under Ground mines are, however, still operable, as stated by the General Manager, NEC, CIL in his deposition. That apart production in Ledo OCP, operated by NEC, CIL, was discontinued in the year 2018, due to geo-technical and safety reasons and process of implementation of Mines Closure Plan, in respect of the said OCP, according to the General Manager, NEC, CIL, is on.

3.138 The General Manager, NEC, CIL in his deposition has also stated that, operations of Jeypore Under Ground colliery, Ledo Colliery and Borgolai Under Ground colliery were discontinued and those collieries were closed in 2001, 07.11.2008 and in June, 2010, respectively. He has also stated that, at the relevant point of time, no Mine Closure Plan being required to be framed and implemented, those collieries were not closed in accordance with any Mine Closure Plan.

3.139 The Commission, during the site visit conducted on 06.03.2021 visited Borgolai Coal Mine, which is also known as "Stone Drift Mine". The said mine is stated to have been closed in the month of June, 2010. The Commission noticed that Borgolai Under Ground mine has not been properly closed and the mouth of the mine is still open. The Commission has also noticed that water flowing from inside the said mine, which appears to be highly polluted, ultimately mixed to the water in the nearby drains / natural streams,



causing further pollution. The Commission has also found that the mouth of the said mine has been blocked by fixing some bamboos and wooden planks. A tree is also found to be naturally grown on the mouth of the said mine.

Few photographs of the mouth of the said mine and flowing of water therefrom, which is yellowish in color, taken during the site visit, are in **Figure 41 to Figure 45**



Fig. 41

[Handwritten signature]

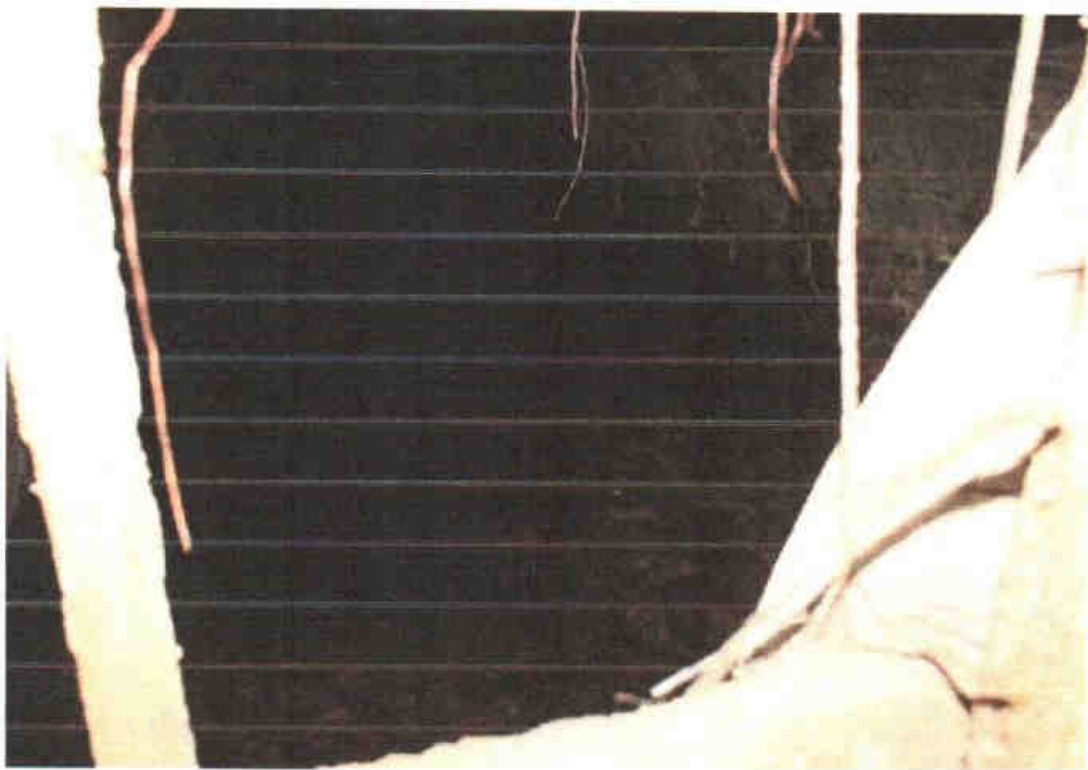


Fig. 42



Fig. 43

✓



Fig. 44



Fig.45

3.140 The Commission also, during the field visit on 06.03.2021, went to Ledo OCP, which is by the side of State

High Way No 38 (Stilwell Road), leading to Jayrampore. The said Ledo OCP though stated to have been closed in 2018, the Commission found that even the pit of the OCP has not properly been filled up, process of which, according to the officers of the NEC, CIL present during the field visit, was started in the month of April, 2018. For Ledo OCP, the Mine Closure Plan was prepared in July, 2013, which is yet to be fully implemented. The GM, NEC, CIL in his deposition has also stated that though as per the Mine Closure Plan, the mine is required to be closed within three years, the said time limit is to be counted from the date of official abandonment of the mine, which is yet to occur.

Figure 46 to 48 are the photographs of Ledo OCP, taken during the field visit showing the present position



Fig. 46



Fig. 47



Fig. 48

3.141 Chapter-V of the Mine Closure Plan of Ledo OCP, prepared in July, 2013, set the time schedule for

the closure. It sets the time limit of 2 ½ years for proper implementation of the Mine Closure Plan. Certain other activities are also to be performed by the NEC, CIL after cessation of the mining operation. Admittedly, though Ledo OCP ceased to be operated in 2018 and back land filling activities have commenced, despite expiry of about three years the Mine Closure Plan has not been implemented fully. Even the over-burden of the said pit dumped in the nearby area formed a small hill. The top soil which was required to be removed initially and after back filling required to be brought back to the original area of mining, is admittedly not available, for which the NEC, CIL ultimately has to bring the top soil from other areas, thereby causing further destruction and disturbance to the soil of other area. The plantation, thereafter, is required to be made in terms of the Mine Closure Plan.

The Commission do not find any reason as to why the Mine Closure Plan, in respect of Ledo OCP has not yet been implemented though the operation in the said OCP discontinued way back in the year 2018. The same may also be the situation in respect of Jeypore Under Ground colliery.

3.142 The non-implementation of the Mine Closure Plan not only caused environmental pollution but also exposed risk to the human life as well as the life of any other fauna, more so when the area is not duly fenced.

3.143 The responsibility of ensuring proper implementation of the Mine Closure Plan is with the Coal Controller, Govt. of India. The General Manager, NEC, CIL has also stated in his deposition that the following amounts have been kept in deposit with the Govt. of India in the Escrow Account for proper implementation of the Mine Closure Plan.

Sl. No.	Name of the OCP/UG	Amount deposited including interest in Escrow Account in Rs.
1	Tipong Colliery	3,21,90,027.00
2	Ledo OCP	8,36,65,063.00
3	Tikok OCP	13,88,20,310.00
4	Tirap OCP	22,67,96,220.00
5	Tikok Extension OCP	7,01,62,519.00
6	Lekhapani OCP	7,65,40,899.00

3.144 Despite the responsibilities of the said authority, namely, the Coal Controller, Govt. of India, to ensure proper implementation of Mine Closure Plan, nothing appears to have been done by the said authority in respect of Ledo OCP.

3.145 Chapter-VII of the Mine Closure Plan of Ledo OCP though requires carrying out mining in the said OCP in a phased manner, initiating afforestation / reclamation work in the mined out area of the first phase while commencing mining in the second phase, i.e the continuation of the mining

activity from one phase to other, the Commission did not notice carrying out mining activities in the said mine in phased manner and initiation of afforestation/reclamation work in the mined out area. The conditions stipulated in the said Mine Closure Plan, therefore, are on papers only and has been violated in impunity. No record of inspection carried out by the Coal Controller, Govt. of India, could also be placed before the Commission. It appears that the Mine Closure Plan was prepared for the sake of its preparation only and not for due implementation.

Restoration / Reclamation of damaged area

3.146 The Commission has already recorded its finding relating to the extensive illegal coal mining activities being carried out not only by the NEC, CIL but also by some other individuals/ organizations by means of rat-hole/Open Cast Mining, thereby causing extensive damage to the environment as well as to the landscape and the flora and fauna of the concerned areas.

3.147 The Commission with a view to ascertain the extent of damage caused to the environment and to address the environmental issues, directed conduct of a study through the NESAC, Umium, Meghalaya or other like agencies, by using high resolution satellite imageries, for mapping of existing features that can be used as a base information for

planning and development as well as restoration activities. Unfortunately the Environment and Forest Department, Govt. of Assam, did not submit the report on any such study, which came into the way of the Commission to make concrete suggestions relating to the measures to be taken for restoration, rehabilitation and reclamation of areas damaged due to illegal coal mining activities. The report of the three IFS Officers, which has already been discussed above, and also the report of the Addl. PCCF(WL) and Chief Wildlife Warden, Govt. of Assam, however, point towards the extensive damage caused to a very big area in Saleki PRF because of the illegal coal mining activities.

Complaints about damage caused to the paddy fields

3.148 The Commission also received complaints about causing of damage to the paddy fields, because of the coal mining activities of NEC, CIL, leading to loss of fertility of the land and also demanding compensation. Based on such allegations, the PCBA was directed to conduct test of the water and soil samples of Tikok OCP, roadside drain of Tikok OCP area, Ledo Katchanala, stagnated water of Tirap OCP, water from Samukjan Nala and soil from paddy fields of Ledo Gaon, Chipe Gaon, Samukjan Gaon, Radgaon, Ledo Coalpara Gaon and Mulang Khamti Gaon. Analysis reports, thereafter, have been submitted to this Commission by the Chairman, PCBA, vide communication dated 15.03.2021. The said

reports reveal low pH value found in the water collected from the aforesaid sources. The analysis reports, in respect of the soil sample collected from the aforesaid paddy fields, do not however contain any finding relating to the fertility of the land of those paddy fields. The analyzed parameters in respect of the soil of the paddy fields of Ledo Gaon, Chipe Gaon, Samukjan Gaon, Rad Gaon, Ledo Coalpara Gaon and Mulang Khamti Gaon, as reported by the I/C, Laboratory, PCB, Assam in his analysis reports are as under :-



অসম প্রদূষণ নিয়ন্ত্রন পৰিষদ POLLUTION CONTROL BOARD, ASSAM

Department of Environment and Forests, Government of Assam
Bainiunaidan, Guwahati-781021, Assam
website: www.pcbassam.org

ANALYSIS REPORT OF TC-09/21

SAMPLE INFORMATION

1. Source: Soil Sample from paddy field of Ledo gaon.
2. Date & Time of Collection: 2021-03-08 at 01:00 PM
3. Date of Receipt: 2021-03-09
4. Collected By: Mr. Mr. D. Handique, SA SES

ANALYSED PARAMETERS:

pH (1:5)	5.7
Oil & Grease (O&G)	BDL mg/kg
Ignitibility	Non-ignitable
Chromium (T)	0.144 mg/kg
Lead as Pb	0.92 mg/kg
Zinc as Zn	1.428 mg/kg
Copper as Cu	0.284 mg/kg
Nickel as Ni	1.246 mg/kg
Cadmium as Cd	BDL mg/kg
Mercury as Hg	BDL mg/kg
BDL: Below Detectable Limit	

I/C Laboratory
PCB, Assam

ANALYSIS REPORT OF TC-10/21
SAMPLE INFORMATION

- 1 Source: Soil Sample from paddy field of Cipe gaon
- 2 Date & Time of Collection: 2021-03-08 at 01:15 PM
- 3 Date of Receipt: 2021-03-09
- 4 Collected By: Mr. D. Handique, SA.

ANALYSED PARAMETERS:

pH (1:5)	5.6
Oil & Grease (O&G)	BDL mg/kg
Ignitibility	Non-ignitable
Chromium (T)	0.176 mg/kg
Lead as Pb	0.364 mg/kg
Zinc as Zn	1.028 mg/kg
Copper as Cu	0.288 mg/kg
Nickel as Ni	1.296 mg/kg
Cadmium as Cd	BDL mg/kg
Mercury as Hg	BDL mg/kg

BDL: Below Detectable Limit

15/03/21
I/C, Laboratory
PCB, Assam

ANALYSIS REPORT OF TC-11/21
SAMPLE INFORMATION

- 1 Source: Soil Sample from paddy field of Biamukpan gaon
- 2 Date & Time of Collection: 2021-03-08 at 01:35 PM
- 3 Date of Receipt: 2021-03-09
- 4 Collected By: Mr. D. Handique, SA.

ANALYSED PARAMETERS:

pH (1:5)	5.9
Oil & Grease (O&G)	BDL mg/kg
Ignitibility	Non-ignitable
Chromium (T)	0.244 mg/kg
Lead as Pb	0.064 mg/kg
Zinc as Zn	1.250 mg/kg
Copper as Cu	0.232 mg/kg
Nickel as Ni	1.155 mg/kg
Cadmium as Cd	BDL mg/kg
Mercury as Hg	BDL mg/kg

BDL: Below Detectable Limit

15/03/21
I/C, Laboratory
PCB, Assam

ANALYSIS REPORT OF TC-12/21
SAMPLE INFORMATION

1. Source: Soil Sample from paddy field of Rod gaon
2. Date & Time of Collection: 2021-03-08 at 01:50 PM
3. Date of Receipt: 2021-03-09
4. Collected By: Mr. D. Handique SA

ANALYSED PARAMETERS:

pH (1.5)	5.8
Oil & Grease (O&G)	BDL mg/kg
Ignitibility	Non-ignitable
Chromium (T)	0.193 mg/kg
Lead as Pb	0.055 mg/kg
Zinc as Zn	0.862 mg/kg
Copper as Cu	0.202 mg/kg
Nickel as Ni	0.818 mg/kg
Cadmium as Cd	BDL mg/kg
Mercury as Hg	BDL mg/kg

BDL: Below Detectable Limit

I/c, Laboratory
PCB, Assam

ANALYSIS REPORT OF TC-13/21
SAMPLE INFORMATION

1. Source: Soil Sample from paddy field of Lada Coal para gaon
2. Date & Time of Collection: 2021-03-08 at 02:20 PM
3. Date of Receipt: 2021-03-09
4. Collected By: Mr. D. Handique SA

ANALYSED PARAMETERS:

pH (1.5)	5.7
Oil & Grease (O&G)	BDL mg/kg
Ignitibility	Non-ignitable
Chromium (T)	0.147 mg/kg
Lead as Pb	0.055 mg/kg
Zinc as Zn	1.051 mg/kg
Copper as Cu	0.174 mg/kg
Nickel as Ni	1.104 mg/kg
Cadmium as Cd	BDL mg/kg
Mercury as Hg	BDL mg/kg

BDL: Below Detectable Limit

I/c, Laboratory
PCB, Assam

ANALYSIS REPORT OF TC-14/21

SAMPLE INFORMATION

1. Source: Soil Sample from paddy field of Mulang Khamti gaon
2. Date & Time of Collection : 2021-03-08 at 02:50 PM
3. Date of Receipt : 2021-03-09
4. Collected By : Mr. D. Handique, SA

ANALYSED PARAMETERS:

pH (1:5)	5.8
Oil & Grease (O&G)	BDL mg/kg
Ignitibility	Non-Ignitable
Chromium (T)	0.527 mg/kg
Lead as Pb	0.084 mg/kg
Zinc as Zn	1.124 mg/kg
Copper as Cu	0.091 mg/kg
Nickel as Ni	1.736 mg/kg
Cadmium as Cd	BDL mg/kg
Mercury as Hg	BDL mg/kg

BDL: Below Detectable Limit

15.07.21
i/c. Laboratory
PCB, Assam

3.149 The Environment and Forest Department of Govt. of Assam was also simultaneously directed to arrange conduct of soil test of the paddy fields of the aforementioned villages. The DFO, Digboi Forest Division on 01.04.2021 sent the soil testing parameters reports submitted by Krishi Vigyan Kendra, Assam Agriculture University, Tinsukia, Assam, which are quoted below.

**KRISHI VIGYAN KENDRA
ASSAM AGRICULTURAL UNIVERSITY
TINSUKIA, ASSAM, INDIA**

Phone: 9836000121, 9836000122, 9836000123
E-mail: kskv@assamagri.ac.in
Mobile: 9835700460



SOIL TESTING PARAMETERS REPORT

Name: Divisional forest officer

Sample No: 630-637

Address: Digboi Division, Digboi

Sample rec. date: 03.03.21

Sample No	Available Iron (Fe) mg/kg	Parameters with Units		
		Available Sulphur (S) mg/kg	Available Zinc (Zn) mg/kg	Available Boron (B) mg/kg
Ledo Gaon paddy field	6	2	0.10	0.39
Rating	High	Low	Very Low	Very Low
Chipe Gaon paddy field	10	2	0.27	0.13
Rating	High	Low	Very Low	Very Low
Rad gaon paddy field	7	5	0.44	0.19
Rating	High	Low	Low	Very Low
Coal para paddy field	4.9	4	0.36	0.28
Rating	High	Low	Low	Very Low
Mulang Khamti gaon paddy field	13	8	0.33	0.19
Rating	High	Low	Low	Very Low
Samukjan gaon paddy field	14	4	0.45	0.11
Rating	High	Low	Low	Very Low

Analysis by: Dr. Kripul Borah
SMS (Soil Science)

Date: 25.03.2021

Senior Scientist and head
KVK, AAU, Tinsukia



KRISHI VIGYAN KENDRA
ASSAM AGRICULTURAL UNIVERSITY
TINSUKIA, ASSAM, INDIA

Phone: 91 93 700460
Mobile: 91 93 700460

Date of receipt: 25/03/21
Registration No: 4706
Page: 1

SOIL TESTING PARAMETERS REPORT

Name: (Divisional forest officer)

Sample No: 630-637

Address: (Diphu Division, Diphu)

Sampling date: 03/03/21

Sample No	pH	Parameters with Units			
		Organic Carbon (C)	Available Nitrogen (N)	Available Phosphorus (P)	Available Potassium (K)
	MI ¹	%	Kg/ha	Kg/ha	Kg/ha
Ledo Gaon paddy field	4.57	1.32	36.1	9.61	62.19
Rating	VSA*	High	Medium	Very Low	Very Low
Chipe Gaon paddy field	4.35	2.03	558.25	11.20	72.23
Rating	EA*	High	High	Very Low	Very Low
Rad Gaon paddy field	3.84	2.17	596.75	21.53	62.15
Rating	EA*	High	High	Low	Very Low
Coal para paddy field	3.97	2.21	607.75	46.47	82.03
Rating	EA*	High	High	Medium	Very Low
Mulang Khamti gaon paddy field	4.14	0.60	225	33.16	59.10
Rating	EA*	Medium	Low	Medium	Very Low
Samukjan gaon paddy field	3.76	1.90	522.50	26.02	69.82
Rating	EA*	High	Medium	Medium	Very Low

Analysis by: Dr. Krijati Borah
SMS (Soil Science)

VSA*: Very Strongly acidic; EA*: Extremely acidic

Date: 25.03.2021

Senior Scientist and head
KVK, AAU, Tinsukia

3.150 It appears from the aforementioned reports submitted by the Krishi Vigyan Kendra of Assam Agriculture University that while the Soil samples collected from Ledo Gaon paddy field is found to be 'Very Strongly Acidic(VSA)', the soil in paddy field of Chipe Gaon, Rad Gaon, Coalpara Gaon, Samukjan Gaon and Mulang Khamti Gaon is found to be 'Extremely Acidic (EA)'

3.151 The Commission having regard to what has been discussed above, is of the view that a team of agricultural scientist may be entrusted with the task of ascertaining as to whether the fertility of the soil of the paddy fields of the aforementioned villages, has been affected due to the coal mining activities, if so, the extent thereof. Based on the study to be conducted, the State Govt. should determine the amount of compensation payable to the affected cultivators, which naturally has to be borne by the NEC, CIL, under the principle of 'polluters pay'.

Writ petitions/ writ appeals filed before the Hon'ble Gauhati High Court

3.152 The Commission having been informed about filing of a number of proceedings before the Hon'ble Gauhati High Court, collected information about the same. The Commission could come to know that WP(C) No. 4056 of 2003 was filed by Sri Moharlal Bania and Others claiming adequate compensation for the damage caused due to the


operation of the Open Cast Mining of coal in Ledo area. The said writ petition was disposed of vide order dated 16.11.2006 directing the Deputy Commissioner, Tinsukia to verify the claim of Writ Petitioners / Association and to assess the compensation payable, within a period of four months, with further direction that such decision shall thereafter be communicated to the Respondent Nos. 4 & 5 therein for their consideration and payment within a period of two months. The Coal India Limited challenged the said order in WA No. 58 of 2008, which was disposed of on 09.05.2008. It appears from the said order passed in the writ appeal that the Deputy Commissioner, pursuant to the direction passed in the aforesaid writ petition identified 108 persons who had suffered damages caused by the activity of the CIL and having regard to the extent of land belong to each of them as well as the crop pattern of the locality, overall yield of crop and such other factors, assessed an amount of Rs. 4,61,48,840/- towards the compensation to be paid by the CIL, for the period from 1989 to 2006. The Writ Appellate court by the said order, however, taking into account the said decision of the Deputy Commissioner, which according to the CIL was taken without hearing them, allowed the CIL to file objection, if any, to the said decision of the Deputy Commissioner with a direction to the Deputy Commissioner to consider the same and pass necessary order. The CIL was directed to pay the compensation to be determined by the Deputy Commissioner.

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3.153 The Addl. District Magistrate, Tinsukia, pursuant to the aforesaid order dated 09.05.2008 passed in WA No. 58 of 2008, thereafter, assessed an amount of Rs. 2,98,31,308/- as compensation for damage of crops due to pollution caused by the CIL from 1989 to 2006, payable to the persons concerned.

3.154 The NEC, CIL filed WP(C) No. 4807 of 2008 challenging the said decision dated 07.08.2008 of the Addl. District Magistrate, Tinsukia. Another writ petition being WP(C) No. 110/2009 was also filed by Ledo Sonali Gaon Pathar Parichalana Samiti challenging the said order dated 07.08.2008. Both these writ petition were heard and disposed of vide common judgment dated 02.09.2014 remitting the matter back to the District Magistrate, Tinsukia to carry out a fresh exercise of determination of compensation payable, with participation of both the contesting groups.

3.155 The said common judgment and order dated 02.09.2014 was put to challenge by Ledo Sonali Gaon Pathar Parichalana Samiti in WA Nos. 340/2014 and 341/2014, which were disposed of by the common order dated 02.03.2015 refusing to interfere with the order dated 02.09.2014 passed in the writ proceeding.



3.156 Thereafter, Ledo Sonali Gaon Pathar Parichalana Samiti filed WP(C) No. 7173 of 2015 praying for a direction to the respondent therein including the NEC, CIL for payment of the compensation as assessed by the Addl. Deputy Commissioner on 07.08.2018 amounting to Rs. 2,98,31,308/-. Another writ petition being WP(C) No. 2408 of 2016 has been filed by NEC, CIL challenging the minutes of the meeting held on 05.06.2015 in the office chamber of the Addl. Deputy Commissioner, Tinsukia. The aforesaid writ petitions being WP(C) No. 7173 of 2015 and 2408 of 2016, as per information of the Commission, are pending for disposal before the Hon'ble Gauhati High Court.

3.157 It appears from the statements made by the NEC, CIL in WP(C) No. 2408 of 2016 that some amount of compensation for the damages caused to the agricultural land owing to open cast mining was paid to the villages.

3.158 The **Terms of Reference No. 8**, which reads as follows, will now be answered :-

8. To enquire into any other prohibited regulated activities inside all forests (RF/PRF) and wildlife sanctuary under Digboi Forest Division and to suggest

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3.160 The maps of the leases as provided to the DFO, Digboi Forest Division by the NEC, CIL are given in **Figures 50 to 54** below :

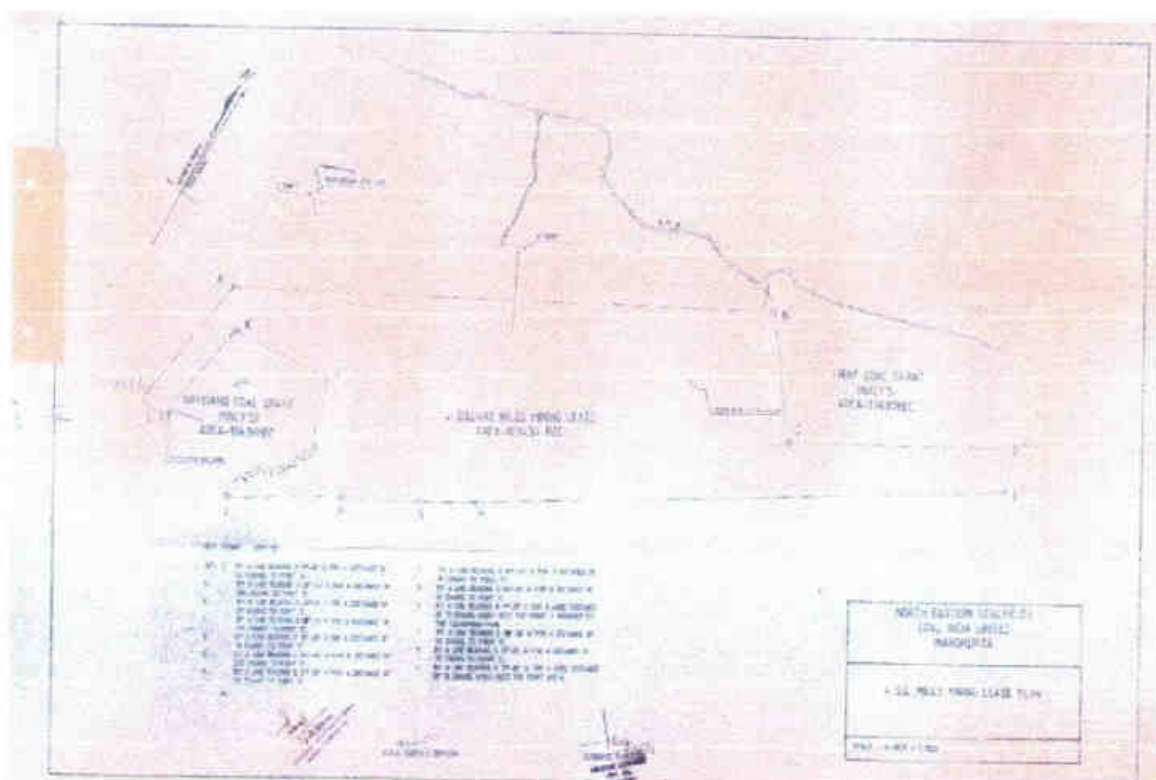


Fig. 50

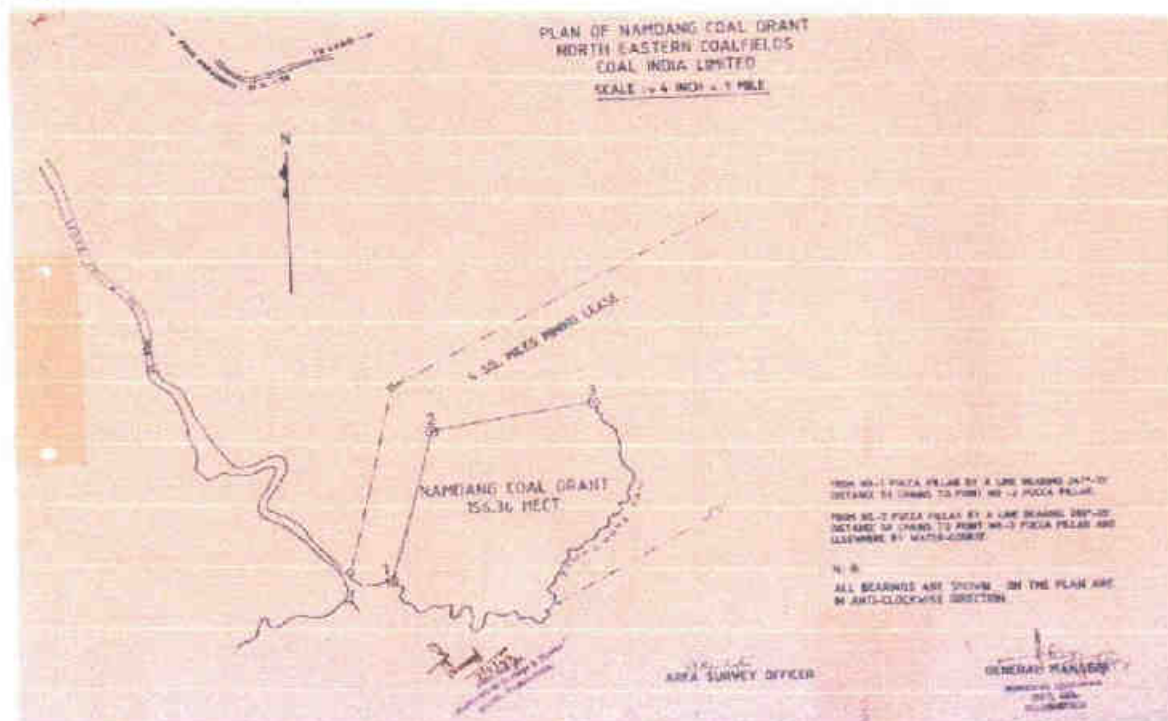


Fig. 51

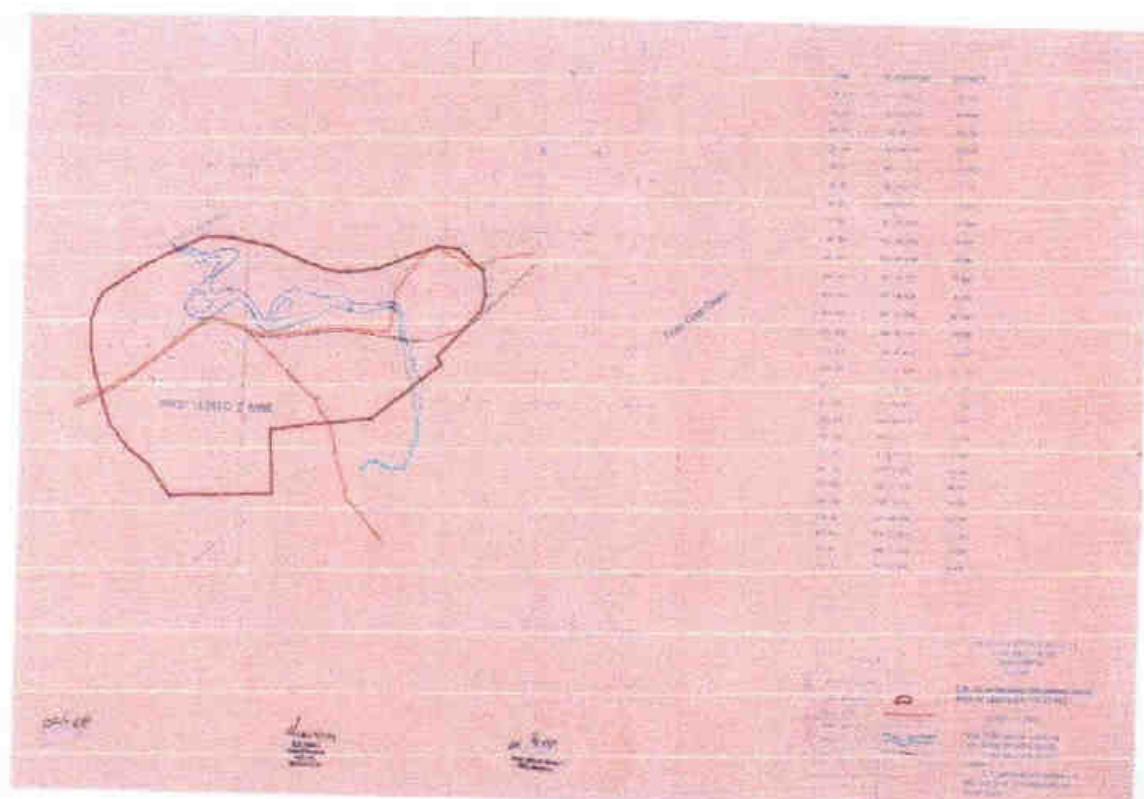


Fig. 54 (Source Addl. PCCF(WL) and Chief Wildlife Warden, Assam)

Illegal Coal Mining Activities in RFs

3.161 The Addl. PCCF(WL) and Chief Wildlife Warden, Assam in his written response dated 12/04/2021 has stated that the scope of the Terms of Reference No. 8 being quite broad and also covers a large spectrum of issues inside all RFs, PRFs and part of wildlife sanctuary falling under Digboi Forest Division, it is not possible to gather all pertinent records and compile the same in such a short time.

3.162 Nonetheless, the Commission from the materials made available before it found illegal activities which are recorded in the following paragraphs.

3.163 The Minister of State in the Ministry of Environment, Forest and Climate Change, in answer to the unstarred question No. 1150 of Lok Sabha, which has already been reproduced above, has stated that *"the State Govt. if aware of illegal coal mining in forest areas of Digboi Division namely, Compartment No. 2 of Namphai Reserve Forest (RF), Tinkapani RF, Tipong RF/PRF, Tirap RF /PRF, Lekhpani RF and Saleki PRF."* Thus, the illegal coal mine in RF is an accepted position of fact. The Commission, while answering the Terms of Reference No. 1 and 2, has also found that illegal coal mining activities by unidentified persons have also been carried out in Tinkapani RF.

3.164 1891 Regulation cast duty on the forest officers to protect the RFs. The term "forest officer" is defined in Sub-Clause(1) of Clause 3 of the said Regulation, which means, any person appointed by name or as holding an office by or under the orders of the State Govt. to be Conservator, Deputy Conservator, Asstt. Conservator, Forest Ranger, Deputy Ranger, Forester, Forest Guard or to discharge any function of a forest officer under the Regulation or any Rules made thereunder. It is the duty of the forest officers of the Govt. of Assam to protect the RFs. Chapter-VIII of the said Regulation specifies the penalty and the procedure to be followed. The forest officers have been given the powers to seize and confiscate, if the forest officer has reason to believe

that a forest offence has been committed. The forest officer has even given the power to arrest without warrant and without the order from a Magistrate, in the circumstances mentioned in Clause 60 of the said Regulation. Clause 61 cast the duty on every forest officer as well as police officer to prevent the commission of any forest offence. The State Govt., under Clause 68 of 1891 Regulation has the power to invest any forest officer with additional powers as mentioned therein. A vast power, therefore, has been conferred on the forest officer for the purpose of protection of RFs.

3.165 The Commission has already recorded the finding about the illegal coal mining activities also in PRFs in Digboi Forest Division either by the NEC, CIL and/ or by unidentified persons/ organizations.

3.166 The Commission has also found that the entire Tikok OCP comprises 98.59 ha of forest land, which is in 4 Sq. mile mining lease and Namdung Coal Grant (see the Map in **Figure 49**). The period of lease of the same had expired in the year 2003. The entire area of 4 Sq mile mining lease is 1034.34 ha and it is in Saleki PRF, except a small portion, which is outside Saleki PRF. The Namdung Coal Grant comprising 156.36 ha is also in Saleki PRF, except a small portion. Out of 98.59 ha of forest land comprised in Tikok OCP, almost 50% i.e 47.46 ha falls in the buffer zone of Dihing Patkai Wildlife Sanctuary. The NEC, CIL, therefore,

could not have broken even an inch of the land in Tikok OCP, without the prior approval of the Central Govt. as required by Section 2 of 1980 Act. The NEC, CIL by indulging in illegal coal mining activities created a huge crater measuring about 800 meters in length, 300 meters in breadth 80 meter in depth, as per the representative of the NEC, CIL, present during the site inspection conducted by the Commission.

Figure 55 is the photograph of Tikok OCP with elevation profile, as furnished by Environment and Forest Department, Govt. of Assam.

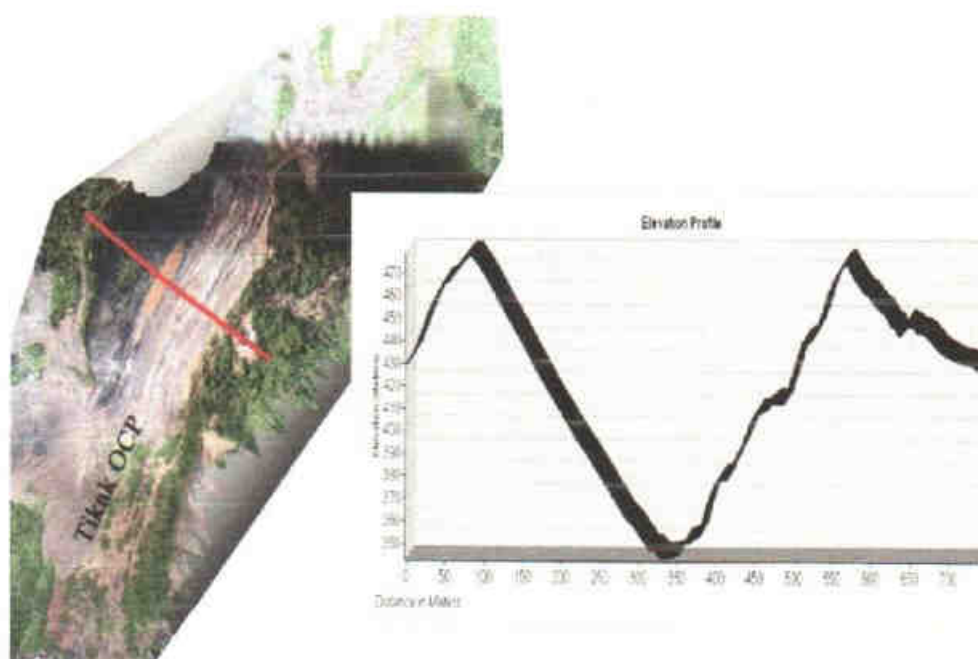


Fig. 55

3.167 The NEC, CIL in their application dated 28.11.2003, as already discussed above while discussing the issue relating to the violation of the provisions of 1980 Act, has admitted breaking of forest land measuring 98.10 ha in respect of Borgolai Under Ground mine, Ledo Under Ground

mine, Tikok OCP and Tirap OCP, which are within the 4 Sq. mile mining lease, apart from 1.40 ha in respect of Borgolai Under Ground mine which falls under Namdung Coal Grant Lease and 143 ha for Tirap Open Cast Mine which falls in Tirap Coal Grant Lease. The Commission has also recorded the finding that breaking of the aforesaid land and use of the same for non-forest purpose was in violation of the provision of 1980 Act.

Encroachment in PRFs and RFs in Digboi Forest Division

3.168 The Commission during the field visit on 08.03.2021, noticed encroachment in Namphai RF and setting up of a village by cutting trees and clearing the jungles.

Figures 56 to 59 are the photographs of such encroachment in Namphai Reserve Forest.

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Fig. 56

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Fig. 57

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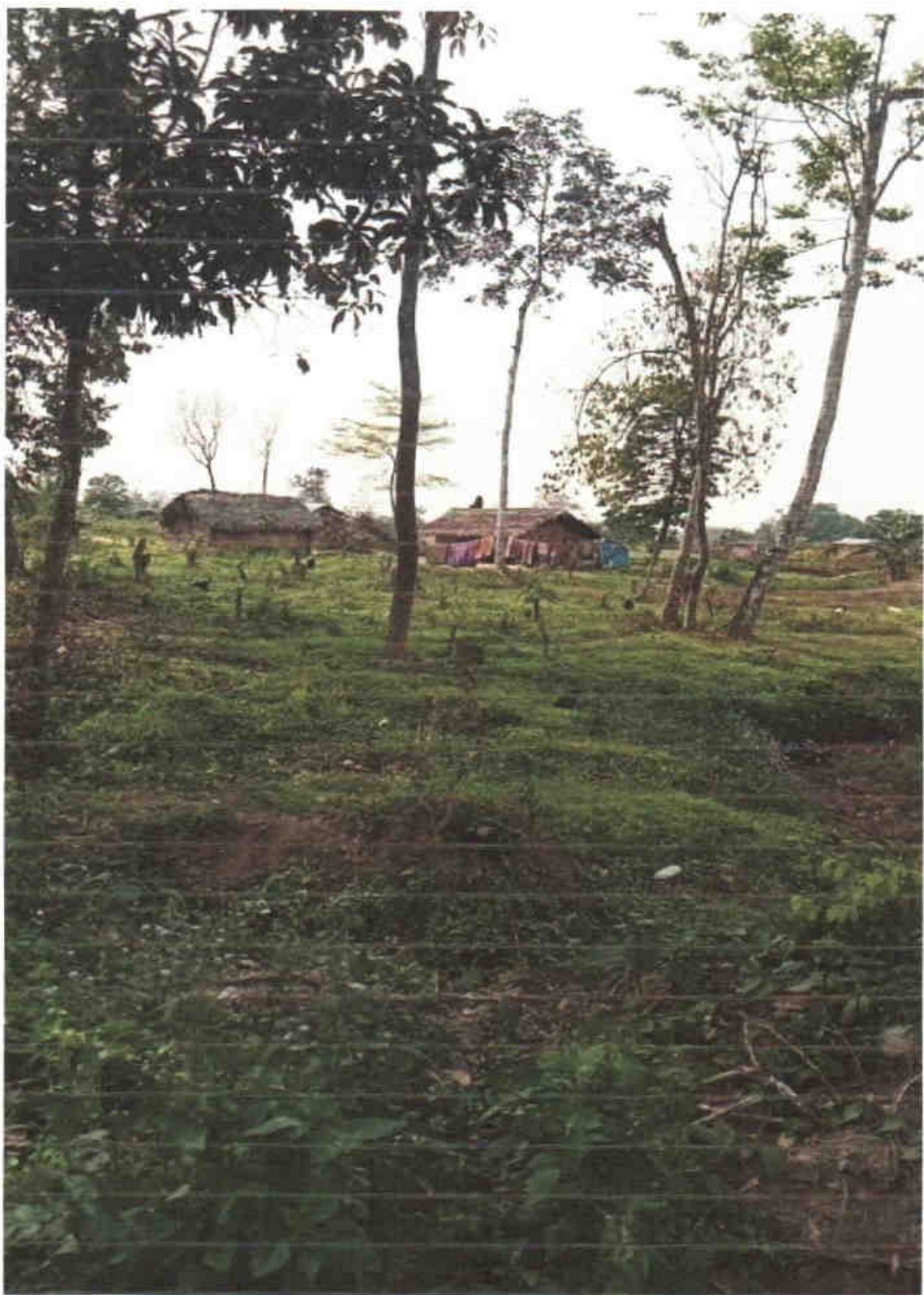


Fig. 58



Fig. 59

3.169 The Commission during the site visit having noticed encroachment in different PRFs and RFs asked the

Divisional Forest Officer, Digboi Forest Division to furnish the details of encroachment. The Divisional Forest Officer, in course of his deposition recorded by the Commission, has produced the communication dated 16.02.2021 issued by him to the Addl. PCCF(Territory), Upper Assam Zone, Guwahati along with the table of details of encroachment in PRFs. The said communication dated 16.02.2021 reveals partial encroachment of forest land in respect of few PRFs and total encroachment in respect of few.

Details of the encroachment as provided by the DFO, Digboi Forest Division, in PRFs and RFs, are reproduced below as **Figure 60** and **61** respectively :-

Sr. No.	Name of PRF	Name of Range	Notification No. & Date	Area in Hect.	Area of PRF under Encroachment (Hect.)	% Area of PRF under Encroachment (Hect.)	Encroachment status	Upgradation Status
1.	Deokhi PRF	Sekhapuri	FRS 55/75/2 dtd. 05-06-1976	2840	1873	65.95	Encroached by tea gardens and illegal mining. Coal India has applied for their mining. Quarters. And has more than 100 houses inside the area.	The remaining part can be upgraded. Excellent potential for restoration as well as 100-15 years.
2.	Proposed 1 st Addn. to Tising R.F.	Sekhapuri	FRS 170/80/20 dtd. 31-01-2000	3028	38	1.25	Only a small area along the edge is encroached by tea gardens. Bounded by all except one side by natural forest.	To be upgraded as priority immediately as the remaining forest is thick and undisturbed.
3.	Proposed 1 st Addn. to Tising R.F.	Sekhapuri	FRS 183/84/22 dtd. 01-12-1996	3080	169	5.48	Only a small area along the edge is encroached by tea gardens. Bounded by all except one side by natural forest.	To be upgraded immediately as priority as the remaining forest is thick and undisturbed.
4.	Chalai PRF	Sekhapuri	FRS 119/74/68 dtd. 18-07-1986	244.15	244.15	100	Completely encroached by tea gardens.	To be upgraded as priority as encroached by tea gardens and is close to other R.F.
5.	Deokhi PRF	Borsong	FRS 66/73/2 dtd. 06-04-1972	880	235	26.70	Completely encroached by tea gardens.	To be upgraded as it is in the buffer of Chokang Wildlife NP.
6.	Proposed 1 st Addn. to Makumpani R.F.	Margheria West	FRS 350/89/18 dtd. 08-08-1990	28	28	100	Completely encroached by tea gardens.	To be upgraded as it is a congruity with Makumpani R.F. and can be relatively easily.

Fig. 60

Reserve Forest with Area & Area under Encroachment under Digboi Division

Sl. No.	Name of Division	Name of RF	Name of Range	Area of RF (In Ha.)	Area of RF under Encroachment (In Ha.)	Nos. of Encroachers (Household)	Remarks
1	Digboi Forest Division	Upper Dehing Reserve Forests (West Block)	Lakhipather, Digboi, Soraipung, Margherita West	27485.06	280.00	10	
2		Upper Dehing Reserve Forests (East Block)	Digboi, Margherita East	12914.00			
3		1st addition to Upper Dehing Reserve Forests (East Block)	Margherita East	259.82	277.80	135	
4		Bogayani Reserve Forests	Digboi	97.17	0.00	0	
5		Digboi Reserve Forests (West Block)	Digboi	936.44	10.00	2	
6		Digboi Reserve Forests (East Block)	Digboi	70.20	15.00	3	
7		Dirak Reserve Forests	Margherita West	3042.51	0.00	0	
8		Makumani Reserve Forests	Margherita West	485.00	16.00	0	
9		Kotha Reserve Forests	Jagun	1133.60	20.00	0	
10		Tinkoyani Reserve Forests	Jagun	3033.60	0.00	0	
11		Namphal Reserve Forests	Jagun	753.04	1205.00	450	
12		1st addition to Namphal Reserve Forests	Jagun	1364.37			
13		Tijong Reserve Forests	Lekhapani	445.34	20.00	4	
14		Lekhapani Reserve Forests	Lekhapani	1396.76	50.00	3	
15		Paharyar Reserve Forests	Lekhapani	166.00	166.00	15	
16		1st addition to Dirak Reserve Forests	Margherita West	676.14	15.00	0	
17		Thrup Reserve Forests	Lekhapani	1455.60	203.30	43	
Total				55714.65	2278.1	665	


Submitted

 (T.C. Aguiar, IAS, IFS)
 Divisional Forest Officer
 Digboi Division, Digboi

Fig. 61

3.170 The Commission during the field visit on 06.03.2021 also noticed encroachment of the forest land in Saleki PRF by Tea Gardens.

Inaction of the forest officers

3.171 Despite the continuance of the illegal coal mining activities in RFs and also the encroachment in the RFs, apart from illegal use of the forest land by NEC, CIL for non-forest purpose, without having the approval as required under 1980 Act, no effective action appears to have been taken by the concerned forest officer of Govt. of Assam to stop such illegal activities.

Activities of Oil India Limited in RFs

3.172 The Commission, during the field visit on 07.03.2021 also found existence of Oil Collection Station (OCS) of Oil India Limited in Jorajaan, within West Block of Upper Dihing Reserve Forest, which causes pollution to the adjacent areas of proposed Dihing Patkai National Park. The Commission also found abandoned drilling sites and few non-operating wells of Oil India Limited in the said Reserve Forest. The Commission has been informed by the DFO, Digboi Forest Division that the OCS needs to be shifted as it causes pollution and those abandoned drilling sites and non-operating wells should not be allowed to operate, those being in the Reserve Forest. One abandoned drilled site was found within 100 meters of the habitat of White Winged Wood Duck, the State Bird of Assam.

Photographs of the said well, taken during the field visit, is in **Figure 62 & 63** below :-

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Fig. 62



Fig. 63

3.173 The DFO, Digboi Forest Division in his statement recorded by the Commission has also stated that the Oil Wells belonging to the Oil India Limited are also in the deemed/default Eco-Sensitive zone of Dihing Patkai Wildlife Sanctuary, i.e within 10 km radius of the said sanctuary.

Elephant Reserve

3.174 The Environment and Forest Department, Govt. of Assam notified Dihing Patkai Elephant Reserve vide notification dated 17.04.2003, published in the Assam Gazette on 19.04.2003. The said elephant reserve consist of three distinct blocks Block-1: Comprising of Upper Dehing Reserve Forest (Western Block), Dirok RF, Jeypore RF, Dilli RF and Digboi RF, (Western Block). Block-2: Consisting of Upper Dehing RF (Eastern Block), Kakojan RF, Digboi RF (East Block) and Bogapani RF and Block-3: : Consisting of Namphai RF, Tinkupani RF, Tirap RF, Tipong RF, Tipong PRF, Paharpur RF, Tirap PRF, Lekhapani RF, Saleki PRF & Makum Pani RF. In addition to these three blocks, the RFs scattered around such as Kotha RF, Buri Dehing RF, Noloni RF, Torani RF, Philobari RF, Duarmukh RF, Tokowoni RF and Abhoypur RF are also included. Thus, the Dehing Patkai ER in the 3 Blocks and scattered RFs is spread over the Forest Divisions of Digboi, Doomdooma, Dibrugarh and Sivasagar. There is however, no statutory provision in 1972 Act, or in any other law time being in force providing constitution of Elephant Reserve or Elephant Corridor.

The notification dated 17.04.2003, published in the Assam Gazette on 19.04.2003, notifying Dihing Patkai Elephant Reserve is made part of this Report as **Annexure-35, in Volume-II.**

3.175 The map of Dihing Patkai Elephant Reserve as notified and furnished by the Addl. PCCF(Wildlife) and the Chief Wildlife Warden, Assam is given in Figure 64 below :

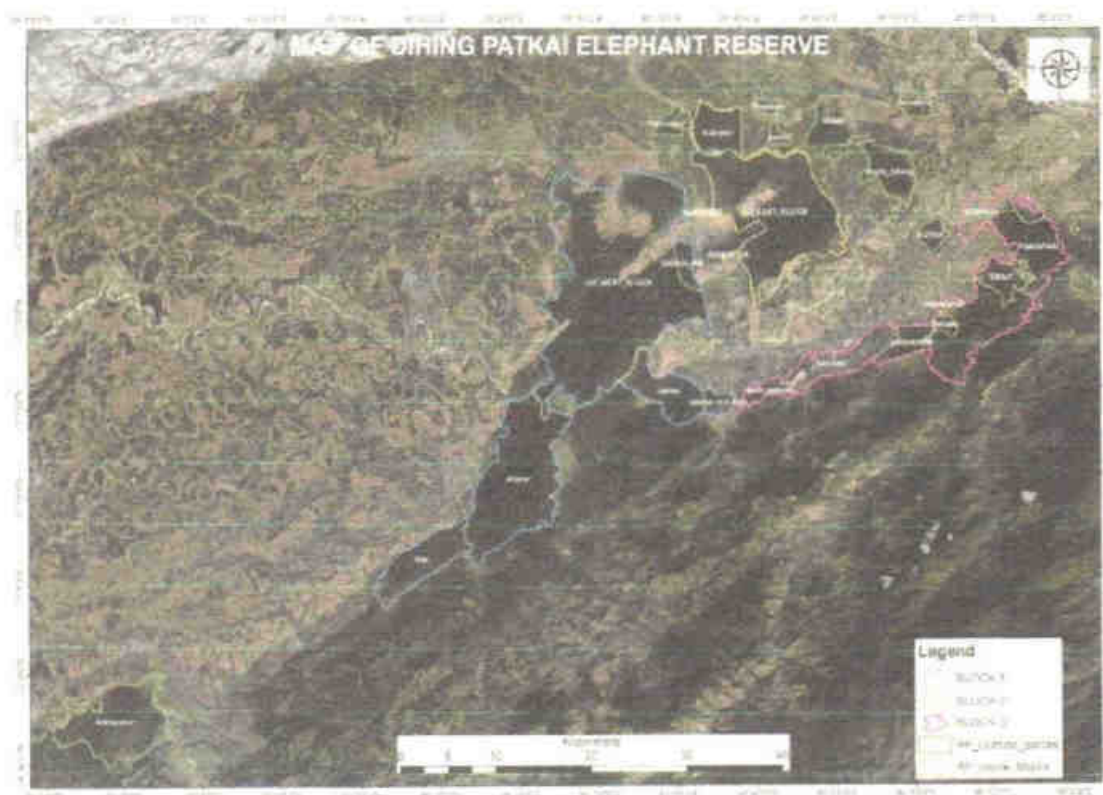


Fig. 64

Elephant Corridors

3.176 The Govt. of Assam in Environment and Forest Department being concern about the growing incident of human-animal conflicts, killing of human beings by wild animals and killing wild animals especially wild elephants in view of hit by running trains /motor vehicles, electrocution, accidental fall into pits, poisoning by unscrupulous elements, death at the hands of unruly mobs etc and having felt the urgent need constituted coordination committees in each of the elephant corridors of Assam, including Bogapani and

Golai Elephant Corridors, vide notification dated 28.12.2016, to prevent such death of wild animals, especially elephants.

A copy of the said notification dated 28.12.2016 issued by the Environment and Forest Department, Govt. of Assam constituting the coordination committees in each of the elephant corridors of Assam is made part of this Report as **Annexure 36** in **Volume-II**.

The Commission, however, has not been informed about the activity, if any, of such coordination committee in protecting the elephant corridors and also in removing the obstruction, if any, on such

3.177 The Commission has also been informed by the DFO, Digboi Forest Division about the need for clearing the Golai Elephant Corridor, which has been permanently blocked by Indian Oil Corporation (Assam Oil Division) by constructing Oil terminal and Bogapani Elephant Corridor which has been partially encroached by a Dhaba. The Commission, therefore, made the field visit on 09.03.2021, during which the Commission found that Golai Elephant Corridor has completely been blocked and Bogapani Elephant Corridor is partially encroached, as stated by the DFO, Digboi Forest Division.

Figure 65, 66 and 67 are the photographs of Golai Elephant Corridor, taken during the field visit, which has completely been blocked.

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Fig. 65



Fig. 66



Fig. 67

Figure 68, 69 and 70 are the photographs of Bogapani Elephant Corridor, taken during the field visit



Fig. 68



Fig. 69



Fig. 70

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Orders passed by the Hon'ble NGT and the Hon'ble Supreme Court

3.178 Dr. Kashmira Kakati, Wildlife Biologist of International repute, had filed an Original Application (OA) before the Hon'ble National Green Tribunal relating to the protection of elephant population in the country and more particularly highlighting the lack of legal mechanism to protect elephant reserves or elephant corridors. Dr. Kakati in the said OA has projected carrying out the construction activities in Golai Elephant Corridor. Construction of a bypass through forest, without prerequisite forest clearance and bisecting Bogapani Elephant Corridor, which connects Upper Dihing via Bogapani Tea Estate through a rail line, discharge of coal mine effluent into Reserve Forest, dumping of Digboi Municipal Waste in Reserve Forest, construction of private commercial business in the close proximity to the reserve forest and activities, which according to Dr. Kakati destroys the pristine elephant habitat and endangered the contiguous zone, apart from others. The said OA was registered and numbered as OA No. 19/2014.

3.179 The Hon'ble NGT disposed of the said OA vide judgment dated 08.12.2017 with the following directions to be complied by the Central Govt. and the State Govt. with a view to protect the elephant population and the other related issues

:

- (a) The Central Government shall in exercise of

the power conferred by Section 5 of the Environment Protection Act, 1986 and read with the provisions of Wildlife (Protection) Act 1972 declare the area inhabited or used by elephants as conservation reserves.

- (b) We direct registration of separate case against the Coal India Limited and Oil India Limited for further enquiry in the matter relating to adverse effect caused to the environment consequent to the act of commission and omission in respect of oil extraction and coal extraction in their respective mines.
- (c) Declare Bogapani Corridor which connects upper Dehing via Bogapani tea estates as forming part of the elephant corridor and issue notification in this regard.
- (d) Conduct a Survey of the elephant population in each state and consequently declare the area surrounding thereto as eco-sensitive zone.
- (c) Declare south Bramhaputra elephant ranges known as Dihing-Patkai Elephant reserve established on 17th April, 2003 by project elephant as the elephant reserve/elephant corridor.
- (f) We hereby restrain the Digboi Town Municipal Corporation from dumping municipal waste and garbage in Dihing-Patkai Elephant Reserve.
- (g) Respondent No. 7 i.e. Oil India Limited to forthwith stop releasing of untreated oil effluent in open sludge pits and seepage areas around oil rigs in the Digboi Oil field which falls within upper Dihing RF (East Block) and the Dihing-Patkai Elephant Reserve.
- (h) We hereby direct Coal India Limited to prevent discharge of toxic pollutant i.e. yellowish-orange water flowing out of old mines, abandoned by it within Jeypore RF

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- and Dihing-Patkai Elephant Reserve.
- (i) We direct Digboi Town Committee, Assam not to allow any construction activity in and around the Digboi reserve.
 - (j) We direct the State of Assam to work out a viable solution for handing over of the abandoned Coal mine of the Coal India Limited to the Forest Department for its proper maintenance and to prevent harm to the flora and fauna.
 - (k) We restrain permanent structure including residence in and around Golai Corridors by the Municipalities and Respondent Nos. 5,6,7 & 8 or private individuals.
 - (l) We direct Central Government to exercise its power under Section 5 of the Environment Protection Act, 1986 and Wildlife Protection Act, 1972 to give legal recognition and status to the elephant corridors at Golai and Bogapani and other areas to ensure free passage of the endangered wildlife animals.
 - (m) Respondent No. 1 to mandate before any proposed development within the established elephant habitat a prior wildlife clearance from the standing committee of the national board of wildlife is mandatory.
 - (n) The Respondent No.1 shall consult project elephant to specially assess the impact of development as part of EIA process and ensure such assessment under Section 36(4) of the Bio Diversity Act.
 - (o) We further direct the State Governments to constitute a State Level Committee comprising of Senior Officers headed by the Chief Conservator of Forest to conduct survey of the elephant population in each district in the State and demarcate the area of their habitation.
 - (p) In the first instance the committee shall complete survey within a period of one year

- and submit the report to the CoreCommittee.
- (q) The Core Committee shall be constituted by the Central Government through Ministry of Environment, Forest & Climate Chang to be headed by officer not below the rank of Additional or Joint Secretary in the Ministry who shall examine the report received from each State and to recommend declaration of area inhabited by the elephants as elephant reserve or elephant corridors by the Central Government an elephantreserve.
 - (r) The core committee shall recommend to the Central Government further action in the matter relating to protection of elephants, declaration of elephant corridors, elephant reserves and for such other direction as may be necessary to fulfill the recommendation as contained in the Gajah (The Report of the Elephant Task Force)
 - (s) The State level Committee and Core Committee shall submit its report to the Tribunal within a period of one year from now and the Applicant will be entitled to approach this Tribunal for further direction as the circumstances mayrequire.

3.180 The said order passed by the Hon'ble NGT, however, was put to challenge before the Hon'ble Supreme Court in Civil Appeal Nos. 9710-9711/2018 by the Coal India Limited, wherein order dated 14.09.2018 was passed directing maintenance of status quo by the parties. The Commission has been informed that the said Civil Appeals are pending for disposal before the Hon'ble Supreme Court.

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Existence of Coke Coal Industries

3.181 Apart from the illegal coal mining activities, as aforesaid, the Commission during the site visit on 25.12.2020 noticed a number of coke coal manufacturing units in Ledo area as well as near Tikok and Tirap OCP.

Few photographs of such industries with coal dumps, taken during the field visit are given in **Figure 71, 72** and **73**



Fig. 71



Fig. 72




Fig. 73

3.182 The Commission, having noticed the existence of such industries, directed the Regional Executive Engineer, PCBA, Dibrugarh Regional Office to furnish the list of Coke Coal Units in existence in Margherita Sub-Division and also whether such industries have obtained the required the CTE and the CTO. The Regional Executive Engineer accordingly vide communication dated 24.02.2021 furnished the said list, wherefrom it appears that there are altogether 61 Coke Coal Industries in Margherita Sub-Division, all near the coal mines of NEC, CIL, out of which one is closed. The CTE has been obtained by only 16 such industries, out of 61. The CTO was issued to two such industries for the year 2019-20, out of 33 industries, who have applied for the same. The applications of 31 for grant of CTO for the year 2019-20 are still pending, meaning thereby that the CTO has not been issued in favour of those industries. Despite not having the CTE and also the CTO, as aforesaid, no actions appeared to have been taken


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by the PCBA to close those industries. The list of Coke Coal Industries with the status of CTE and CTO, as furnished by the Regional Executive Engineer, PCBA, Dibrugarh Regional Office, is as follows :-

List Of Coke Units Under R.O. Dibrugarh



Name Of The Coke Coal Industry	Status Of CTE	Status Of Last CTO
1. M/S. Sai Coke Coal, Borgolai	-	Applied for 2019-20
2. M/S. Assam Coke Coal, Borgolai	-	"
3. M/S. Laxmi Coke Coal, Telkhad	-	"
4. M/S. RDR Coke Coal, Borgolai	CTE obtained	"
5. M/S. Gurung Coke Coal, I. No. Borgolai	-	"
6. M/S. Shivani Coke Coal, Borgolai	CTE obtained	"
7. M/S. BRN Coke Coal, Telkhad Basti	-	"
8. M/S. Anjali Coke Coal Products, Namdang, N.C. Village	-	"
9. M/S. Doriya Coke Coal, Ledo	-	"
10. M/S. Royal Coke Coal Industry, Telkhad Basti	-	"
11. M/S. Indian Coke Coal Industry, Changlang Road	CTE obtained	"
12. M/S. Kamakhya Coke Coal, Ledo	-	"
13. M/S. Madhubdev Coke Coal, Borgolai	CTE obtained	"
14. M/S. Upper Assam Coke Coal, Borgolai	-	"
15. M/S. Prasad Coke Coal, Ledo	-	"
16. M/S. North East Coal Products, Borgolai	-	"
17. M/S. Bhawani Coke Coal, Borgolai	-	"
18. M/S. Bhujal Gram Coke Coal, Ledo	-	"
19. M/S. Patkal Coal Products Pvt. Ltd., Ledo	CTE obtained	"
20. M/S. Bhabani Enterprise, Ledo	-	"
21. M/S. Royal Coal Products, Telkhad Basti	-	"
22. M/S. Namdang Coke Coal (U-I), Borgolai	-	"
23. M/S. Namdang Coke Coal (U-II) (Closed)	-	"
24. M/S. Timp Coke Coal, Ledo	-	"
25. M/S. Swapna Coke Coal, Ledo	-	"
26. M/S. Pradhan Coke Coal, Ledo	-	"
27. M/S. Dibra Coke Coal, Rod Gaon	-	"
28. M/S. Kamakhya Enterprise, Borgolai	-	"
29. M/S. Chakraborty Coke Coal, Rod Gaon	-	"
30. M/S. Black Queen Coke Coal, Ledo	-	"
31. M/S. Lilaboti Coke Coal Products, Ledo	CTE obtained	"
32. M/S. Star Coke Coal Products, Rod Gaon	CTE obtained	"
33. M/S. Black Diamond Coke Coal, Borgolai	-	"



34. M/S. Lalpahar Coke Coal, Tipong	CTE obtained	
35. M/S. Ganpati Coke Coal, Signal Basti	-	
36. M/S. Maa Industries, Margherita	-	"
37. M/S. Diamond Coke Coal, Namdang, N.C.	-	
38. M/S. Jyoti Coke Coal Industry, Borgolai	-	
39. M/S. Samukjan Coke Coal, Ledo	-	
40. M/S. Sunrise Coke Coal, Rod Gaon	CTE obtained	"
41. M/S. Maa Durga Coke Coal, Ledo	CTE obtained	"
42. M/S. Ghising Coal Products, Borgolai	-	"
43. M/S. Joya Coke Coal Products, Telkhad Basti	-	"
44. M/S. Shiv Coke Coal, Borgolai	CTE obtained	"
45. M/S. Margherita Coal Products, Borgolai	-	"
46. M/S. Pragoti Coke Coal, Ledo	-	issued
47. M/S. PNR Coke Industries, Signal Basti	-	Applied for 2019-20
48. M/S. Arjun Coke Coal, Telkhad Basti	CTE obtained	"
49. M/S. Bajrangbali Coke Coal, Tirap Gate	CTE obtained	"
50. M/S. DGP Coke Coal, Signal Basti	-	
51. M/S. NCB Coke Coal, Nepali Basti Ledo.	CTE obtained	
52. M/S. Vishal Coke Coal, Ledo	-	"
53. M/S. Usha Coke Coal, Ledo	CTE obtained	
54. M/S. Maa Kali Coke Coal Products	-	
55. M/S. R.G. Coal Products, Borgolai	-	
56. M/S. S.K. Coke Coal, Borgolai	-	"
57. M/S. B.Gogoi Coke Coal, Rod Gaon	-	
58. M/S. Balaji Coke Coal, Ledo	-	issued
59. M/S. Asom Coke Coal, Ledo	-	Applied for 2019-20
60. M/S. M.K. Coal & Co., Makum Pathar	-	"
61. M/S. North East Minerals, Ledo	CTE obtained	"

Loss of human life and injuries caused to various persons due to illegal coal mining activities

3.183 A number of persons have appeared before the Commission during the public hearing conducted in Margherita on 26.12.2020, some of whom have stated about illegal coal mining activities, engagement of the local youths in dumping and transportation of illegally mined coal, death of few such persons and causing grievous injuries to some others. Sri Garnel Minj, who is the President of Margherita Regional Committee of All Adivasi Students' Association of Assam submitted a list of 22 (twenty two) persons, out of which 15(fifteen) persons stated to have died and 7(seven) persons stated to have suffered total disablement, arising out of and in course of their engagement in illegal coal mining activities. Smti. Malati Gorh, Smti Bihani Gorh, Smti Sabitri Lama (Tamang), Sri Belu Orang, Sri Januaryuse Ekka and Sri Lakhinder Nag, whose deposition have also been recorded by this Commission on 26.12.2020, has supported what Sri Garnel Minj has stated in his deposition.

3.184 The Commission having noticed the same, vide notice dated 18.02.2021 directed the Deputy Commissioner, Tinsukia district to verify the aforesaid claim of Sri Garnel Minj through an Executive Magistrate posted in Margherita and to submit a report to this Commission on or before 06.03.2021. No report, however, has been submitted to the Commission. The deposition of aforesaid persons recorded on

26.12.2020 has not been challenged by anyone as they were not subjected to cross-examination. None other than the learned counsel representing one of the memorialists, namely, Sri Debi Goenka was present during the public hearing held on 26.12.2020, though public notices were issued in the newspapers and all concerned were individually informed. The said assertion relating to the death of few persons and sustaining grievous injuries by others remain unchallenged.

3.185 The names of the persons who claim to have died or received grievous injuries, as revealed from the deposition of the aforementioned persons, are as follows :-

List of persons claimed to have died

1	Late Bijoy Gorh S/O Digolal Gorh, Vill- Amritgaon
2	Lt. Ram Tamang, S/O Lt. Satal Singh Tamang, Vill- 3 No. Hawoipathar
3	Late Alekson Gowala S/O Lokhi Das Gowala, Vill-1 No. Line Lama Gaon
4	Late Akash Gorh S/O- Anil Gorh, Vill- Amritgaon
5	Late Bijoy Gorh S/O- Biyalal Gorh, Vill-Amritgaon
6	Late Bishnu Prasad Sarma S/O Prem Pd. Sharma, Vill- Amritgaon,

7	Late Aksosh Ekka S/O Janyaryuse Ekka, Vill- Madhupur (Toklong)
8	Late Zamir Tosha S/O Niranja Tosha, Vill- Ledo TE
9	Late Birju Tuti S/O – Sahade Tuti, Vill- Lama Gaon
10	Late. Alsan Toppno S/O Rechard Toppno
11	Late Birsa Bage S/O- Areala Bage Vill- Dirok, 5 No. Line Margherita
12	Late Simon Minj S/O- Benjamin Minj, Vill- Hawaipather
13	Late Ashish Nag R/O- Namdung TE, PS- Margherita
14	Late Sanjeep Toppo Vill- Ledo TE
15	Late Puni Jal S/O Kalabulhu Ja;R/O –Ledo TE

List of persons claimed to have received grievous injuries

1	Ranjikt Rajput S/O Late Samu Rajput, Vill- 2No. Ningam
2	Hukhesor Gogoi S/O- Lakheswar Gogoi, Vill- Nabjyoti
3	Babita Kerketta Vill- Ledo TE
4	Ashok Minj S/O- Belu Minj Urang Vill- Hawaipathar, GP- Kunchai
5	Ashis Das

	Vill- Ningam
6	Biraj Gorh
7	Anil Orang S/O- Belu Orang No. 1 Hawaipathar, PS- Lekhapani

3.186 The responsibility to ensure that there is no illegal coal mining activities, rests on the Govt. of Assam, which they have failed to discharge and hence the next of kin of the person died and also the persons who received injury during such illegal coal mining activities are entitle to compensation from the Govt. of Assam.

Brutal attack on a journalist

3.187 Sri Diganta Chetia, who was a journalist and working for electronic channel 'Prime News' and also the newspapers 'Janasadharan' and 'Niyomiya Barta', appeared before the Commission on 26.12.2020 for recording his statement relating to the brutal attack on him by the persons involved in illegal coal mining activities on 06.07.2011. In his deposition he has stated about the grievous injuries received by him, for which he was treated in Assam Medical College, Dibrugarh; Guwahati Neurological Research Center, Guwahati and Sanjivani Hospital, Dibrugarh, for the head injury, lung injury and also injury in the esophagus received by him. An FIR was also lodged in Margherita Police Station, which was registered as Margherita PS Case No. 115/2011 under

Sections 143/341/325/427/307/392 IPC, stating inter-alia that on 06.07.2011 at 10:45 PM, when Sri Diganta Chetia, brother of the first informant Sri Pranab Kr. Chetia, and his colleague Sri Kanchan Bora were on their way to collect news, then one Sri Joyram Lama of Ledo Bazar along with 20-30 coal pilferers physically assaulted them with sticks and iron rods at Ledo Bazar near the Masjid, with an attempt to kill them, during which Sri Diganta Chetia received grievous injuries and was admitted to Assam Medical College and Hospital, Dibrugarh in a critical condition. The Investigating Officer during the investigation arrested a number of accused persons and after completion of investigation Charge Sheet No. 142/2014 dated 29.09.2014 has been filed against 8 arrested accused persons as well as 5 other accused persons showing them as absconder, as informed by the Superintendent of Police, Tinsukia by communication dated 25.02.2021.

A copy of the said communication dated 25.02.2021 issued by the Superintendent of Police, Tinsukia to the Secretary of the Commission intimating the aforesaid fact is made part of this Report as **Annexure 37 in Volume-II**.

Photographs taken during recording the statement of Sri Diganta Chetia's by the Commission are in **Figure 74 and 75**.






Fig. 74



Fig. 75

3.188 Sri Diganta Chetia submitted the documents relating to the treatment taken by him in the aforementioned hospitals, which reflect surgical intervention on a number of occasions to treat the injuries received by him, including pulmonary hemorrhages in right upper lobe, left lower lobar apical and left upper lobar apicoposterior segments. The

Commission also noticed that Sri Diganta Chetia cannot even move without a help. He even could not put his signature in the deposition, because of the injuries received by him, therefore, he has put his thumb impression. According to Mr. Chetia, he is yet to be fully recovered and is still under treatment. He has also stated that an amount of Rs. 20.00 Lakh has already been spent on his treatment in various hospitals from 2011 till the date of recording of his deposition. The Commission is also of the view that further treatment is required by him.

Framing of Rules under Section 23C of the MMDR Act.

3.189 The Govt. of Assam, in exercise of the power conferred by Section 23C of the MMDR Act, very recently on 18.02.2021, framed a set of Rules, namely, the Assam Minerals Regulations and Dealers Rules, 2020, to regulate the possession, storage, trading and transportation of minerals and mineral products and to check evasion of royalty or seigniorage fee, stopping of illegal mining and transportation in the State of Assam and for the purposes connected therewith, vide Notification No. PEM.44/2017/320 dated 18.02.2021. The said Rules came into force on 11.03.2021, i.e the date when it was published in the Assam Gazette (Extraordinary).

A copy of the Assam Minerals Regulations and Dealers Rules, 2020, as notified in the Assam Gazette on 11.03.2021, is made a part of this Report as **Annexure 38 in Volume-II.**

3.190 The Mines and Minerals Department of Govt. of Assam failed to place any reason before the Commission for not framing such Rules till the year 2021 despite the allegations of illegal coal mining activities made for more than a decade.

3.191 The officers of the Mines and Minerals as well as of the Directorate, Govt. of Assam, though have the due and responsibility to ensure that no mining activities taken place without a valid lease, they have failed to discharge their duties and responsibilities for a long time since the year 2003. No inspection even appears to have been conducted. They have in the process failed to protect the State's property which results in huge loss to the State exchequer.

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CHAPTER -IV

RECOMMENDATIONS

The Commission in Chapter-III of this Report has recorded its findings relating to the Terms of Reference No. 1 to 8, as notified by the Govt. of Assam. Based on such findings the Commission makes the following recommendations :

1. Remedial measures to check the illegal coal mining activities

1.1 The illegal mining activities, at all cost need to be stopped and cannot be allowed to continue as is presently going on. The Commission, is of the view that for the purpose of ensuring an end to the illegal coal mining activities, including raising, storing and transportation of coal, a fool proof mechanism has to be in place.

1.2 To check the illegal activities, specially illegal coal mining activities, the appropriate authority may carefully weigh the long term gain and loss and social cost benefit out of coal production vis-à-vis conservation of the remnant forest and wildlife as extensive damage has already been caused in the areas of coal mining activities since the early 19th century. The appropriate authority should also bear in mind that coal is found beneath the wet evergreen forest, also called as Rain Forest, of the areas including adjoining

Dihing Patkai Wildlife Sanctuary, Jeypore RF, Upper Dihing RF, Dirok RF, Makumpani RF, Lekhapani RF, Saleki PRF etc. These areas are also one of the last remnant sites of Rain Forests in India and house a large number endangered and endemic flora and fauna. The production of Coal from these areas is a miniscule of total coal production of the country.

1.3 The Commission, in view of the above, recommends that the State Govt. as well as the Central Govt. should take a prudent decision, in public interest, as to whether the coal mining activities should totally be stopped or should be allowed in a regulated and scientific manner and, if so, whether the same should be by Under Ground mining projects only.

1.4 The Commission, also makes the following recommendations, provided the Govt. decides to allow mining of coal in future, upon compliance of the provisions of all the applicable laws including 1980 Act and Rules framed thereunder as well as MMDR Act and related Environmental Laws :-

- (i) To constitute a Monitoring Committee under the Chairmanship of the Chief Secretary to under take monthly review of actions taken by various 'Authorized Officers' in filing complaints before the concerned Courts of Law, under Section 21 of the MMDR Act, against the persons involved in

illegal mining activities.

- (ii) To formulate guideline stipulating there in a detailed procedure for exercise of the powers conferred on the State under sub-section(5) of section 21 of the MMDR Act to recover mineral raised unlawfully from such person or where such mineral has already been disposed of to recover price thereof.
 - (iii) To mandatorily invoke the provision of sub-section (5) of section 21 of the MMDR Act in all cases where illegal raising or storage or transportation of coal is detected.
 - (iv) To initiate necessary action by the PCBA for violation of the provisions of the Air Act, Water Act and 1986 Act against the persons involved in raising, storage and transportation of coal and against the owners / possessors of coke coal industries setup, without obtaining CTE and CTO.
 - (v) To constitute a committee headed by the DGP to monitor taking of appropriate action by the police against any person involved in raising, storage and transportation of coal, without any valid authority.
 - (vi) To examine critically by the PCBA the regulatory regime presently in force to govern establishment and operation of coal depots / dumps and to take necessary actions to fill the gaps, if any, in such
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regime, to prevent, minimize the environment

*pollution cause by the acidic water emanating
from such depot.*

- (vii) To put in place a mechanism stipulated in Appendix-XII of the EIA Notification 2006 to regulate transportation of coal in the State.
- (viii) To allow transportation of coal only by rail. For the purpose of the consumption of coal by local industries, transportation of coal should be permitted only through a designated route. Coal carried other than by rail or by the designated route, as aforesaid, should be treated as derived from illegal mining and necessary penal action should be initiated.
- (ix) shifting of all Coke Coal Industries outside 10 Km radius of the coal mines, if such mines are allowed to be operated in future;
- (xii) to ensure immediate closure of all the Coke Coal Industries, the mining of raw material i.e the coal required for such industries, by the NEC, CIL being not presently allowed;
- (xiii) to ensure seizure of existing available coal from such industries, if no valid document could be produce by them; and

2. Regarding Environmental Impact

2.1 Having noticed the extensive damage caused and also non-implementation of the mine closure plan as well as non-closure of mines properly, the Commission recommends that the areas that have already been mined should be reclaimed and restored with rich vegetation cover as required of a Wet Evergreen Forest. The cost to be incurred is to be borne by NEC, CIL under the principle of 'polluters pay'.

2.2 The satellite mapping through the NESAC or like agency, having not been done, despite the direction issued by the Commission and also there being no baseline data available with the Environment and Forest Department prior to 2017, as well as there being no recent study to find out the affect of coal mining activities on the environment as well as on the flora and fauna of the concerned area, the Commission recommends conduct of the satellite mapping through NESAC or like agency and thereafter undertake a comprehensive study, by a committee consisting of Environmental Scientists and experts from all other related fields to find out the actual impact of illegal coal mining activities on the environment as well as on the flora and fauna generally found in and around the forest area, taking the Regional Wildlife Management Plan as 2017 as base data for flora and fauna; and to draw the road map for

reclamation and restoration of the environmental damages caused and also to ascertain the amount required for restoration of such damages. The amount so required has to be realized from the polluters under the principle of "polluters pay".

3. Regarding eviction of encroachers etc.

3.1 To take immediate steps for eviction of the encroachers from the RFs and PRFs, so as to protect the forest land.

3.2 To take immediate steps, subject to the order (s) if any, passed by any courts of law, for clearing the Golai and Bogapani elephant corridors, so as to enable the elephants to move by such corridors, without any hindrance which would help in reduction in the man and elephant conflict.

3.3 To ensure shifting of Oil Collection Center and to take required steps so that the oil wells of Oil India Limited in Upper Dihing RF, are not operated in future.

3.4 The Commission having found illegal mining activities in the RFs and PRFs and also encroachment in the RFs, recommends taking appropriate legal actions against the concerned forest officers for their failure to protect the forest land.

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4. Payment of compensation

4.1 The Commission, having regard to what has been discussed above, recommends :-

- (i) payment of Rs. 7.5 Lakh to the next of kin of each of the person who have died, as detailed above, subject to the verification of their claim of death due to illegal coal mining activities; and
- (ii) payment of compensation in range of Rs. 1.5 lakh to 5.0 Lakh, to the persons mentioned above for the injuries sustained by them, depending upon the nature of injuries sustained, subject to the verification of their claim of injury due to illegal coal mining activities.
- (iii) payment of Rs. 10.00 Lakh to Sri Diganta Chetia, towards the expenses already incurred for medical treatment and pain and suffering and his immediate examination by a medical board consisting of experts, to find out his present physical conditions as well as further treatment including specialized treatment required by him and to provide all required treatment, as may be found necessary by the medical board, at the expense of the State Govt.
- (iv) to constitute a team of agricultural scientist for ascertaining as to whether the fertility of the soil of the paddy fields of the villages, namely, Chipe

Gaon, Rad Gaon, Coalpara Gaon, Samukjan Gaon and Mulang Khamti Gaon, has been affected due to the coal mining activities, if so, the extent thereof. Based on the study to be conducted, the State Govt. should determine the amount of compensation payable to the affected cultivators, which naturally has to be borne by the NEC, CIL, under the principle of 'polluters pay'.

5. Recovery from the NEC, CIL

5.1 To take immediate steps for realization of Rs. 43,24,85,798/-, imposed on NEC, CIL as penalty for breaking the forest land for non-forest purpose without obtaining the necessary approval under the 1980 Act.

5.2 To take immediate steps for realization of Rs. 4,87,213.49 lakhs from the NEC, CIL, being the price of the disposed of mineral raised without any lawful authority from the year 2003-04 till date, as required under Sub-Section(5) of Section 21 of the MMDR Act.

6. Inquiry/investigation by an independent agency

6.1 The Commission having regard to what has been discussed above, recommends conduct of an inquiry/investigation to find out the persons responsible for

the ongoing rat-hole illegal coal mining and also the officers of various departments/agencies of Govt. of Assam who are / were either involved or abetted or facilitated the illegal coal mining either by NEC, CIL or by the persons/organizations indulging in illegal coal mining.

6.2 The Commission, on the following considerations, recommends conduct of such inquiry/ investigation by an independent agency, like Central Bureau of Investigation, over which the State Govt. has no control :

- (i) Continued illegal coal mining by NEC, CIL as well as by some unknown persons/organizations since the year 2003. NEC, CIL indulged in the coal mining activities without a valid registered lease. They have also mined over the forest land despite not having the required approval under Section 2 of the 1980 Act. No authority, despite continuance of such illegal activities, took any effective action till the year 2019, to ensure stoppage of such illegal coal mining activities by the NEC, CIL, except temporary stoppage of such activities for a very brief period.
- (ii) No action by any authority shown to have been taken to stop the illegal rat-hole mining by some unknown persons/organizations. Such inaction on the part of the authorities in the Environment


and forest department, Mines and Minerals Department, District Civil Administration, District Police Administration, Govt. of Assam amounts to giving tacit consent /approval to such illegal mining.

- (iii) Ongoing Illegal mining activities though were accepted by the SDO(Civil), Margherita in his communication dated 08.08.2018 (**Annexure 24**), action was refused to be taken in the guise of not having sufficient man power in the police force. In the said communication, he has also noticed transportation of huge quantity of illegally mined coal on daily basis resulting in huge loss to the State exchequer. Though based on such observation FIR ought to have been lodged, the SDO(Civil) has taken a lame excuse of inadequate strength of police personnel to monitor such illegal activities.
- (iv) There are also allegation of involvement of a former police officer, while in service, in this illegal trade (refer the statement of Sri Garnel Minj recorded on 26.12.2020). Even a murderous attack was done on a journalist. Only 533 cases were registered from the year 2003 to 2021 in different police stations of Dibrugarh, Tinsukia, Bongaigaon, Nagaon, Morigaon, Hailakandi,

Golaghat districts and in the Commissionerate of Guwahati City, as stated by Inspector General of Police (L&O), Assam Police Headquarters, Guwahati in his written response dated 19.02.2021 submitted before the Commission. No suo-moto FIR was registered in any district, including Tinsukia district, despite continued illegal coal mining activities from the year 2003 till date and also despite the aforesaid communication of the SDO(Civil) Margherita.

- (v) No action appears to have been taken and no inspection appeared to have been done by the PCBA to find out as to any mining activities being carried out in Tinsukia district, though for setting up of a coal mine CTE and CTO are required to be obtained under the Air Act and the Water Act. No actions also appeared to have been taken by the PCBA against the NEC, CIL despite the fact that they did not have the CTO for few years.
- (vi) Correct information, as discussed by the Commission in the foregoing part of this Report, were withheld by the concerned departments of Govt. of Assam from the State Board of Wildlife. The Chief Ministers, who presided over the concerned meetings of State Board for Wildlife, found to have been misled in making recommendation for granting the approval under

section 2 of 1980 Act, though almost half of Tikok OCP falls within the eco-sensitive zone of Dihing Patkai Wildlife Sanctuary.

- (vii) The entire relevant records were not placed before the Commission, which may be an intentional act just to cover up the illegal activities and to protect the persons responsible for illegal mining, which has the effect of encouraging such illegal mining activities. Even the process for satellite mapping, through the agencies like NESAC, as directed by the Commission, was initiated with unexplained delay which results in non-submission of any report in that regard during the tenure of the Commission fixed by the Govt. of Assam, though such satellite mapping was necessary to know the exact extent of the illegal coal mining activities. However, the Commission has already recorded the finding of continued illegal mining activities in large scale, which includes such coal mining activities by rat-hole/open cast method. Unless such persons are identified and punished, there would be no end to the illegal coal mining activities. The Commission is of the view that such huge illegal activities for decades cannot be continued without the involvement of the persons from the concerned Departments
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/Agencies of Govt. of Assam. It also needs to be found out whether there was/is any political patronage for continuance of such illegal activities for such a long period of time.

- (viii) The Commission, during the public hearing and the site visit, observed reluctance of the general public to come forward and make statement against the illegal coal mining activities, which may be due to the fear psychosis they have because of the involvement of some influential persons in such illegal activities. (refer the statement of Sri Siddharth Rasaily recorded on 27.12.2020)
- (ix) The State has a duty to enforce the human rights of a citizen providing for fair and impartial investigation. Inaction on the part of few departments /agencies of Govt. of Assam in not taking appropriate action to stop illegal coal mining activities, having found, it has become necessary to find out the officers, if any, who did not intentionally take the appropriate action at the appropriate point of time and encouraged and /or abetted the illegal coal mining activities.
- (x) Because of the involvement of several departments /agencies the Commission is of the view that unless an inquiry /investigation is conducted by an independent agency, like CBI,

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over which the Govt. of Assam has no control, the truth may not come out and in the process the guilty officers, will go unpunished. The inquiry/investigation by such an independent agency will also instill people's confidence and would be in the tune of zero tolerance policy of the Govt. of Assam against corruption.

- (xi) The Commission, therefore, recommends conduct of the inquiry/investigation, as aforesaid, by an independent agency, like CBI, to identify and punish the person indulging in illegal coal mining activities and also the officers involved in such activities either by encouraging or by abetting the same.



(Justice B.P. Katakey)

**Former Judge, Gauhati High Court
One Man Commission of Inquiry**

Dated Guwahati, the 17th April, 2021


EPILOGUE

The Commission before parting with the record would like to acknowledge the immense hard and tireless work of the Secretary of the Commission, Sri Hiranya Pathak, DCF and Sri Rajib Baruah, DCF, Assam, as well as the following staff of the office of the Commission, without whose active assistance it would not have been possible to conduct the inquiry smoothly.

1. Sri Karuna Kalila, Draftsman
2. Sri Dipmoni Dutta, Jr. Assistant
3. Sri Kamal Das, Computer Operator
4. Sri Nilkamal Kalita, Computer Operator
5. Sri Sibu Das, Office Peon
6. Sri Satya Das, Office Peon
7. Sri Pithu Sarma, Office Peon

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The Commission also wishes to acknowledge the efficient and hard work of Sri Kumud Ch. Nath and Sri Animesh Mahanta, without whose tireless efforts it would not have been possible to compile and prepare the report within the time fixed by the Govt. of Assam.



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A special mention has to be made for the assistance rendered by Sri Ranjith Ram, IFS, DFO, Digboi Forest Division, who has rendered his abled assistance whenever the Commission needs the same.



(Justice B.P. Katakey)
Former Judge, Gauhati High Court
One Man Commission of Inquiry