

**J.N. Singh, Advocate**

Former Director

Coal India Ltd. Subsidiaries

“सत्यमेव जयते”

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Ref : Affidavit / Court of Inquiry / 2019 /01

Date-15.10.2019

To,

Sri Venkanna Banothu,

Member Secretary, Court of Inquiry,

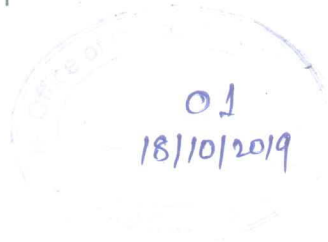
Office of D G M S,

Main Building,

Directorate General of Mines Safety

Hirapur, Dhanbad, 826001

Jharkhand.



*18/10/19*



**Sub : Submission of Affidavit related to Court of Inquiry – Rajmahal Opencast Mine Accident**

Dear Sir,

I am enclosing the Affidavit sworn in by me on the matter relate to “ Court of Inquiry – Rajmahal Opencast Mine Accident”

You are requested to kindly do the needful at your end.

Thanking you,

Faithfully yours

J.N. Singh

Advocate

Encl : Original Affidavit as detailed above.



## IN THE MATTER OF COURT OF INQUIRY—RAJMAHAL OPENCAST MINE ACCIDENT

I, Jagdish Narayan Singh, aged 75 years, S/O Late Deo Narayan Ram, resident of 104, Uma Shanti Apartment, Kanke Road, Ranchi 834008 (Jharkhand) do hereby solemnly affirm and state as follows in the Matter of Court of Inquiry - Rajmahal Opencast Mine Accident”.

- 1.) That I have gone through the Notification dated 20<sup>th</sup> September, 2019 signed by the Hon'ble Court of Inquiry constituted by the Government of India under section 24 of the Mines Act, 1952, in compliance with the order of the Hon'ble High Court of Jharkhand at Ranchi dated 5<sup>th</sup> April 2019 in writ Petition No 66 of 2017 [Md Sarfraz Vs State of Jharkhand and other]
- 2.) That I have a Degree in Mining Engineering from 'Indian School of Mines, Dhanbad' awarded in 1965. Thereafter I have passed Second and First Class Manager's Certificate of Competency Examination under Five Paper stream. The said examination was conducted by the Directorate General of Mines Safety, Dhanbad functioning under the Ministry of Labour and Employment.
- 3.) That thereafter I obtained 'Degree in Law' and Post Graduate Diploma in "Social Works" from Calcutta University I have Association with many professional bodies like Institution of Engineers (Fellow); Indian Mine Managers Association; Mining, Geological and Metallurgical Institute of India; Indian Council of Arbitration (Fellow). I am the founder President of the "Federation of Coal Industry Retired Employees Association" and continue to be so.
- 4.) That I have served the Coal Industry for over 38 years in various capacity including 2 years of Research and superannuated after serving as Director of Western Coalfields Ltd and South Eastern Coalfields Ltd on 31<sup>st</sup> January 2004.

Authorised under Notaries Act 1952  
& Notaries Rules 1956 by Govt. of  
Jharkhand, Ranchi (India)

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- 5.) That I have written a book titled "Geological Faults and their Problems" as back as in 1968. I am co- author of a series in Four volumes titled as "Coal Mining and Management". I have written Chapters related to "Management, Legislation and Safety". I have presented several papers related to Technical, Professional and Literary ones.
- 6.) That on my superannuation I was enrolled as an Advocate by the 'High Court of Jharkhand at Ranchi'. The enrollment number is 3352 of 2005.
- 7.) That soon after I knew about a Public Interest Litigation filed by Md Sarfaj I prayed before the Hon'ble Court of Jharkhand at Ranchi for admitting me as an Intervener. My prayer was admitted vide IA No 653 of 2017.
- 8.) That in my prayer, I had brought out the related provisions of the Coal Mines Regulations, 1957 framed under the Mines Act, 1952 related to Safety. *Inter alia*, I had also mentioned that "the contractors have enough money power and influence to disregard the instruction given by the Manager or even Agent". The provisions under the said Regulations 1957 and the influence of the contractor would be brought out by me during the proceedings of the "Court of Inquiry".
- 9.) That I also submitted a 'Supplementary Affidavit' on the matters related to accident and brought out the necessity of constitution of Court of Inquiry. I enclosed a list of "Court of Enquiry" constituted after enactment of the Mines Act, 1952. The list included the accident on 15-5-1953 and the subsequent ones totaling 28 Court of Enquiries. Even when number of persons killed varied between 3 to 5 the Court of Inquiry was constituted.
- 10.) That it is beyond any reasonable cause that the D.G.M.S. persistently prayed for not constituting the Court of Inquiry. In its Counter Affidavit No 2, Sri Niranjana Sharma, Director of Mines Safety under para 10 mentioned "*that the Enquiry conducted under Section 23 of the Mines Act, 1952 revealed that the accident was a clear case of failure of over burden and Coal Benches*" and further



that "a complain case based on the Enquiry Report has already been instituted at the behest of the respondent no 5 ( D.G.M.S) in which Shri Bhola Nath Shukla, Nominated owner and Director Technical (Operation) of M/S Eastern Coalfields Ltd. (ECL) and 15 others have been made accused under the provision of the Mines Act 1952, coupled with the fact that adequate Provisions and guidelines are existing in the statute to prevent similar type of accident therefore, it is felt that Constitution of Court of Enquiry under section 24 of the Mines Act, 1952 is not necessary"

11.) That it is pertinent to note that the enquiry under Sub-section 2 of the section 23 of the Mines Act, 1952 is to be conducted within two months of the accident by Inspector (Functional designation—Dy Director, Director etc of Mines safely). In all the previous accidents for which Court of enquiry constituted were enquired by D.G.M.S. In this context it is to be mentioned that the Officials of D.G.M.S. have deliberately not pointed out the following in its Report submitted to the Director General of Mines Safety who had ordered for conducting Enquiry vide his Office Order dated 30-12-2016, just after one day of the Accident.

- (i) The Inspection Report of the D.G.M.S. dated 11-08-2016 (i.e only 4 months and 17 days before the accident) did not find any defect related to Mining Geometry of the benches (This refers to my supplementary Affidavit – para 11) Further a High Power Committee constituted by Chairman C.I.L. headed by Sri Shekhar Saran, CMD, CMPDIL and five others including a professor of IIT (ISM) and experts on Slope Stability from CIMFR and B.I.T. Meshra. In its report under para 6.2.8 pointed out the following:

"While going the violation book maintained at the project, it was noted that excessive height and high angle of slope was not recorded by the officials of the D.G.M.S. in recent past"





(ii) Whereas 16 Officials of the Eastern Coalfields Ltd including Director (Tech) down below upto Mining Sirdar were made accused. However, none of contractors or their representatives was named as an accused in the complain case filed by the D.G.M.S. in the court of the Chief Judicial Magistrate at Godda, a district of Jharkhand defying the provisions of the Mines Act, 1952. The contractor representative supervising the operation was an Agent as per the definition of the "Agent under the Mines Act, 1952. The responsibilities of contactors and their supervisors in the matter related to safety is brought out under the following para.

12. That in my Supplementary Affidavit I have brought out the following amongst other issues.

Entire operation was carried out by the contractor namely M/S MIPL-NKAS (JV), at address B-21, Corporate House, Opp-Pakwan-II SG Highway Badakdev, Ahmedabad-380054. The operation included removal of over-burden and raising Coal.

13. That under the contract the "safety" provisions were to be met by the contractor. It is amply clear from the reading of Clause 18 (Section II page 51) of the Agreement between the contractor and the Management of "Eastern Coalfields Ltd" binding the Contractor fully for safety measures. Under the said para 18 there are 18 provisions related to safety which are to be complied by the contractor. Among those 18 provisions S.N. (vi) reads as *"the Contractor must ensure that's all the workings are as per provisions of Mines Act, Regulations & Rules and Bye- laws made thereunder."*

14. That the clause 45 (Section III page 60) of the said Agreement further emphasises compliance of the provisions under all the Acts / Rules / Regulation / Bye- laws. The para specifically, interalia, other Acts, Mines Act is specifically mentioned.

That the Complaint Petition for contravention of various provisions of the Mines Act, 1952 and Coal Mines Regulations, 1957 which are



punishable under Section (s) 72 A, 73, 70 (1) and 72 C (1) (a) of the Mines Act, 1952. All these provisions for punishment apply to Contractors as owner and also the Supervisors of the Contractor as the Agent. The very definition of the "Owner" covers the contractor namely M/S MIPL-NKAS(JV). Likewise any Supervisor or representative of the contractor taking part in the supervision is an "Agent" whether appointed as such or not. This refers to section 2 (l) for "Owner" and Section 2(1) (c) for the Agent.

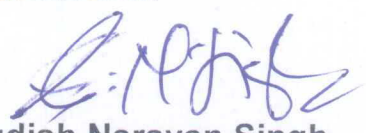
16. That the submission made under the para above leaves no scope for not making the contractor and his supervisors as accused.
17. That the Inquiry Committee constituted by the Director General of Mines safety vide Office Order dated 30-12-2016 (just a day after the accident) in its report under para 18 (page 78) has brought out absurd reasons so as to why the Contractual Company i.e. M/S MIPL-NKAS (JV) and any of the supervisors were not responsible for the accident. By offering such unacceptable reasons the D.G.M.S. has definitely made itself a party favouring the Contractor.
18. That any reference of document of provision of any law mentioned under my submission above would be placed, if needed and or ordered by the Court of Inquiry during proceedings of the Inquiry.
19. That I have given my brief Bio-Data in relation to my association with Coal Industry to beg sufficient time to me for argument and presentation before the Hon'ble Court of Inquiry.
20. That I urge that the following persons may be summoned to present themselves during the proceedings of the Inquiry enabling them to make their Statement and put to Cross-examination.
  - (i) Sri Utpal Saha, Dy Director General of Mines safety.
  - (ii) Sri Niranjana Sharma, Director, Region No 3, Eastern Zone, Sitarampur.
  - (iii) Sri Kokdabattini Gyaneswar, Dy Director (HQ) Dhanbad.
  - (iv) R.R. Mishra, CMD Western Coalfields Ltd, then working as CMD of the M/s Eastern Coalfields Ltd.





- (v) Sri Bhola Nath Shukla CMD, Mahanadi Coalfields Ltd., then working as Director Technical (Operation) of M/s Eastern Coalfields Ltd.
- (vi) Sri Sanjay Kumar Singh then Agent and General Manager (incharge) Rajmahal Area, M/S E.C.L.
- (vii) Sri Pramod Kumar, then Manager, Rajmahal Opencast Mine of M/S E.C.L.
- (viii) Sri Shekhar Saran, CMD, CMPDIL.
- (ix) Dr V.K. Singh, Head of the Slope Stability Division, CIMFR (Central Institute of Mining and Fuel Research), Dhanbad.
- (x) Any other person needed for Cross-examination as it appears necessary during proceeding of the Court of Inquiry

21. That a "Brief Statement" related to Rajmahal Opencast Mine covering Geology, working in past etc. and the matters related to the Accident by the management of M/S Eastern Coalfields Ltd; "Brief Statement" by the D.G.M.S on the accident related matter and also "Brief Statement" by Sri Shekhar Saran, CMD, CMPDIL. Such statements may kindly be made available to me for fruitful deliberation.
22. That I intend to place facts and participate as an "Independent Individual" in the proceedings of the Hon'ble Court of Inquiry enabling it to conclude its finding and in suggesting remedial measures and other allied recommendation.
23. That the Statement made under para 1 to 14 are true to my knowledge and para 15 to 22 are by way of submission.

  
**Jagdish Narayan Singh**  
**DEPONENT**  
 Identified by me

M. Mahesh, Adv.  
 Advocate 14/10/19

Enrol. No. 4923/06

Signature Attested on  
Identification of Lawyer



NOTARY PUBLIC  
RANCHI

14 OCT 2019