

OFFICE OF THE
ASSAM INFORMATION COMMISSION

JONAKEE COMPLEX, SHILPGRAM ROAD, PANJABARI, GUWAHATI- 781037

Phone : (0361) 2332704, 2337900, 2331193 :: Fax : 2332704 :: email : secretary.sicassam@gmail.com

Case No. : SIC/KPM 411/2022
Complainant/ Appellant : Sri Joydeb Das
Respondent : SPIO, O/o the Assam Mineral Development Corporation, Khanij Bhawan, R.P.Road, Dispur, Guwahati 06
Date of Hearing : 29/09/2022
Complaint/ Second : Dr. A.P.Rout,
Appeal heard by : State Chief Information Commissioner, Assam

O R D E R
21/10/2022

1. The petitioner Sri Joydeb Das has filed one RTI petition before the PIO, Assam Mineral Development Corporation, Khanij Bhawan, Dispur, 781006 seeking following information:

Required Information: Garampani Coal Mine.

- i) Please furnish in details of Auction procedure.
 - ii) Location viz. latitude and longitude,
 - iii) Year wise production during the period 2015 to till date.
 - iv) Name of the contractor with copy of contract agreement
 - v) Copy of Transit Pass for transportation of coal mine
 - vi) Copy of Environment Clearance Certificate
 - vii) Copy of Minutes of the auction committee.
2. The PIO of AMDCL sent a reply to the petitioner on 30.6.2021.(copy enclosed).
 3. Reportedly on not being satisfied with the information received, the petitioner filed 1st appeal before the Managing Director, Assam Mineral Development Corporation Ltd., Dispur on 12.7.2022.

The petitioner mentioned the following anomalies:

Reply to Query No.1: "MSTC website contains the auction procedure.

It is seen that reply not met with query, I need copies of Auction procedure which was followed for Auction of Garampani Coal Mine during the period 2015 to till date".

Reply to Query No.3: "That exempted under 8(1)(d) of the RTI Act.

It is noted that regarding production/extraction of coal by the lessee, does not fall under 8(1)(d) of the RTI Ac, because which documents is assessable and pertaining in your good office the PIO cannot denied, However, more important that whether your good office has maintained transparency in public eyes or not. Kindly furnish year wise production record".

Reply to Query No.4: "Confidential document & Please refer Section 8(1)(d) of the RTI Act. However, the names of the approved customers are given below:

It is noted that nothing is confidential regarding copies of contract agreement because agreement has signed between the lessee and authority so does not fall under exemption. That your good office need to be maintained transparency regarding fair contract agreement in the interest of revenue earn. Though kindly provide copies of contract agreement and name of the contractor/lessee who awarded lease of coal mine above such period".

Reply to Query No.5: "Clarity required on the copy of transit pass.

Kindly refer interpretation of reply of Query No. iii and iv for your kind perusal. So kindly furnish the copy of transit pass during the period 2015 to till date".

Reply to Query No.6: "Applied for TOR/EC is under process.

Kindly furnish specific information that lease wise (with date) TOR/EC is under process during the period 2015 to till date”.

Reply to Query No.7: “May contact MSTC Office.

The reply is not met with query because the PIOs have not followed Section laid down to transfer the application under RTI Act, 2005. So kindly transfer the RTI application to the concerned authority who pertaining the said documents”.

4. In reply to this, the PIO of AMDCL sent a letter to the petitioner on 20.7.2022 wherein the petitioner was called at office of AMDCL to represent his case on the information sought by him before the First Appellate Authority.
5. The petitioner then filed 2nd appeal before the Commission on 17.8.2022 and accordingly, the matter was taken up for hearing.
6. The petitioner Sri Joydeb Das is present.
7. The Public Authority is represented by Sri Amit Kumar, SPIO, Assam Mineral Development Corporation Limited. The PIO has submitted a written statement dated 28.9.2022 which is taken into records.
8. The petitioner stated that he is not able to retrieve the details of the auction procedure from the website.

The Commission advised him to go through the website once again and if he fails to get the details, the petitioner will visit the office of AMDCL and collect the documents in a pendrive.

9. In relation to year wise production of the Mine, the petitioner said that the information is furnished from the year 2015-16, 2016-17 , 2017-18 and after that information for the year 2018-19, 2019-20, 2020-22 is not provided stating exemption under the RTI Act, 2005.
10. The SPIO vide letter dated 30.6.2022 stated that the production of the mines relates to commercial confidence & trade secrets, the disclosure of which would cause harm the competitive position of the Corporation & hence the same is exempted under 8(1)(d) of the RTI Act.

The Commission has analyzed the issue of exemption u/s 8(1)(d) of the RTI Act,2005 in another case relating to Assam Mineral Development Corporation vide case No. SIC/KPM 109/2022 dated 11.7.2022, the Commission would like to quote the relevant order of the above as follows:

Quote Further in earlier letter dated 9.10.2017 the petitioner stated that since AMDC has given the information how can they deny it stating to be trade secret.

The Commission in this regard refers to some website of following coalfields the details of coal production as follows:-

Nevyali Lignite Production Performance

Details	Unit	2018-2019	2017-2018	2016-2017	2015-2016	2014-2015	2013-2014
		Actual	Actual	Actual	Actual	Actual	Actual
Overburden	Lakh Cubic Metre	1708.94	1851.35	2060.70	1702.76	1592.98	1681.72
Lignite	Lakh Tonne(LT)	242.49	251.53	276.21	254.51	265.43	266.09
Power Generation (Gross)	Million Unit (MU)	20673.52	20740.84	22340.59	19182.21	19729.13	19988.65

Mahanadi Coalfield Coal Production

Category	Coal Prod. (M.T.)	O.B. Removal (M.Cu.M)
2008-09	96.34	51.85
2009-10	104.08	66.07
2010-11	100.28	88.70
2011-12	103.12	85.67
2012-13	107.89	90.36
2013-14	110.439	96.028
2014-15	121.379	89.221
2015-16	137.901	98.414
2016-17	139.21	123.34
2017-18	143.06	138.18
2018-19	144.15	130.00
2019-20	140.36	124.51
2020-21	148.01	173.15

Korba Coalfields Coal production performance during 2020-21

<u>UG(Lakh Tons)</u>	<u>OC(Lakh Tons)</u>	<u>Total(Lakh Tons)</u>	<u>OBR(Lakh Tons)</u>	<u>Off-Take(Lakh Tons)</u>
12.54	1300.4	1313	1583.24	1195.64

From the above, it is clear that the extraction of coal yearwise from 2012-13 to 2020-21 cannot be considered to come under trade secret. Unquote.

11. Further, the petitioner pointed out that unlike the earlier case of the **petitioner Sri S.K. Sarma Vs. SPIO, O/o the Assam Mineral Development Corporation Limited** where the petitioner has asked the information from 2012-13, in this particular case, the petitioner Sri Joydeb Das has asked for the information from the year 2015-16 onwards. Hence, the information is to be furnished by the SPIO of Assam Mineral Development Corporation Ltd.
12. The petitioner said that contract agreement should be transparent so that the public should be aware and doubt on loss of revenue to the public exchequer should be cleared.

To this the SPIO mentioned that pricing is not linked with the production so question of transparency/loss of revenue where when asked with same price, same duration, if the parties could extract more coal than other party, there will definitely be revenue loss.

List of consumers is given but it is not given year wise, so the Commission directs the SPIO to furnish the detailed information.

13. The petitioner said that copies of transit passes are not given, there is no clarity of what type of transit passes are being paid?

The Commission directs the petitioner to visit the spot and in consultation with the SPIO collect 12 sample passes of different months of different year.

14. In relation of copy of minutes, the petitioner said that he had not got the copies.

In relation to that AMDC replied that they do not do any auction, as it is done by MSTC, Govt. of India. So they cannot provide copies.

15. In this case, **the Commission in analyzing the prayer of the petitioner, the reply of the SPIO/1st Appellate Authority and Commission earlier order SIC/KPM 109/2022 Dated 11.7.2022 decides that in addition to information already provided, information for one more year i.e,2018-19 to be provided to the petitioner.**

16. The case is disposed off.

Authenticated copies to be given to all concerned.

Sd/-
(Dr. A.P. Rout)

Authenticated true copy.

Sd/-
Registrar
Assam Information Commission

Memo No. SIC/KPM 411/2022

Dtd. 21.10.2022

Copy to:

1. The SPIO, O/o the Assam Mineral Development Corporation Ltd., Khanij Bhawan, R.P.Road, Dispur, Guwahati 06 for information and necessary action as ordered above.
2. The petitioner Sri Joydeb Das, S/O Lt. Karunamoy Das, H.No.16, Kushal Konwar Road, Near Mayur Krishna Cinema Hall, Ambari Fatashil, Guwahati 25 for information.
3. Computer Section for uploading in the Website.
4. Office File.
5. Order Book.

Registrar
Assam Information Commission