

**IN THE COURT OF SH. ARUN BHARDWAJ, SPECIAL  
JUDGE (PC ACT) (CBI), COAL BLOCK CASES-01,  
ROUSE AVENUE DISTRICT COURT, NEW DELHI**

**CNR NO.: DLCT11-0002762021**

**Case No.: CBI/34/2021**

**RC No.: 220-2015-0012**

**Branch: CBI/EO-II/New Delhi**

**U/s 120-B, r/w 420 & 468 IPC, 13(2) r/w 13(1)(d) PC Act.**

**CBI vs. Ram Gopal & Ors.**

1. This Court, vide orders dated 16.12.2022, had pointed out following queries to CBI:

**“i. Adani Enterprises Ltd.:** It is not clear why in spite of observations of Technical Evaluation Committee in its report dated (i) 29.08.2012, (ii) 15.09.2012, (iii) another undated report of TEC, (iv) report dated 19.10.2012 and (v) 06.11.2012 insisting that Adani Enterprises Ltd is not eligible in the absence of copies of submissions made to the statutory government authorities in support of OB and coal production, the said firm was declared eligible by the tender committee on the basis of the certificate dated 24.09.2012 of its chartered accountant/undated certificate of its company secretary which mentioned that the information given in the certificates with respect to coal produced and over burden planned is as per submission of quarterly report of coal production activity submitted to Department of Mining and Energy of Republic of Indonesia and Department of Environment of Republic of Indonesia ?

When such quarterly submissions were filed with Department of Mining and Energy of Republic of Indonesia and Department of Environment of Republic of Indonesia, why these submissions were not insisted upon by the Tender Committee?

Will it not amount to showing undue favour to this company? During investigation if the copies of submissions made to the Government authorities of Indonesia in support of OB and coal production were taken on record, it would have shown whether the certificates furnished by this company showed correct figures of OB and coal production.

**ii. AMR India Ltd:** When Technical Evaluation Committee in its report dated 29.08.2012 had found that this company has not filed copies of submissions made to the Government authorities in support of OB and coal

production, year-wise and mines-wise, duly certified by the statutory auditors, why Arvind Kumar, DGM, CMRG vide letter dated 31.08.2012 did not ask for the submissions made to the Government authorities?

Why Arvind Kumar sought clarification regarding work done certificates issued by Singareni Collieries Co Limited?

Whether Tender Committee showed undue favour to AMR India Ltd by declaring its bid technically fit despite of company not providing submissions made to government authorities?

During investigation if the copies of submissions made to the Government authorities in support of OB and coal production were taken on record, it would have shown whether the Work Done Certificates furnished by SCCL showed correct figures of OB and coal production.

The financial expert had informed that as per prevailing system of submissions of returns to Government authorities in India, such a declaration has to be provided by the authorised person of the mine owner for coal production on a monthly, quarterly and annual basis to the Controller General (Mines), Controller of Mines, Regional Controller of Mines and State Government concerned. Therefore, when such a declaration is filed on monthly, quarterly and annual basis, why such declaration was not insisted upon by the Tender Committee?

iii. During investigation if the copies of submissions made by LANCO Infratech Ltd to the Government authorities in Australia in support of OB and coal production were taken on record, it would have shown whether the Royalty Returns furnished by LANCO Infratech Ltd showed correct figures of OB and coal production.

iv. If undue favours were shown by the Tender Committee to all the three ineligible bidders, will it be a case of conspiracy of Tender Committee with all the three ineligible bidders or conspiracy of Tender Committee with successful bidder only or the Tender Committee was persuaded by Royalty Returns filed by LANCO Infratech Ltd, certificates by the Chartered Accountant/Company Secretary of Adani Enterprises Ltd and Work Done Certificates given by SCCL for ensuring wider competition considering that the coal block was allocated in 1995, attempts to select the Mine Developer and Operator had failed thrice in the year 2007, 2008 and 2009, last date of this

tender was extended twice for more participation and considering that the Ministry of coal was pressing for early mining activity by SAIL?”

2. Today, reply has been filed on behalf of CBI to the queries of this court. The response of CBI is:

**“(i) Adani Enterprises Ltd.:**

Factually, it is correct that in case of M/s Adani Enterprises Ltd., the Certificate dated 24.09.2012 issued by the Chartered Accountant/undated certificate of its Company Secretary did not fulfill the requirement of eligibility. It is also factually correct that the investigation was not specifically directed to examine this deficiency in the matter of eligibility of the said company.

It is submitted that the investigation was concentrating on the specific question of illegal award of contract in the appointment of Mine Developer & Operator (MDO). The contract was awarded in favour of M/s Lanco Infratech Ltd. resultantly the conduct of other companies who unsuccessfully applied for the award of contract was not subjected to intensive investigation. There was no undue favour to the non-awardee companies.

**(ii) AMR India Ltd. (AMR - Coastal Consortium)**

Factually, it is indisputable that there were clear cut deficiencies in the documents submitted by M/s AMR India Ltd. to substantiate its claim for eligibility. However, for the reasons stated above in response to pertaining to M/s Adani Enterprises Ltd., the investigation was not directed on the non allocatee/awardee companies.

Factually, it is indisputable that the Tender Committee exceeded its powers in modifying/relaxing some eligibility conditions set out in the original tender document. For the reasons herein stated before, the investigation did not focus on the adherence to substantive procedural provisions in the case of non allocatee / awardee companies.

(iii) The conclusion of the Court as is mentioned at para 100(iii) is absolutely correct.

(iv) It is undoubtedly correct that the Tender Committee overlooked the matter of ineligibility by failing to strictly comply with the clear prescribed conditions in the

matter of all the three applicants, who were considered. It is respectfully submitted that the moot point is whether any mens-rea can be attributed to the members of the Tender Committee for such unilateral relaxation/non-compliance, in the peculiar circumstance of the case where the withdrawal/de-allocation of the coal block on account of inordinate delay loomed large. Having uniformly relaxed the condition at that stage, it was still incumbent to insist upon absolute compliance in the matter of the entity, which was eventually awarded the contract. In other words, the situation would be different if successful applicant was given an opportunity to submit the requisite documents as a pre-condition to the award of contract.”

3. This Court has carefully considered the reply filed on behalf of CBI as well as submissions addressed by Sh. R.S. Chema, Ld. Senior Advocate for CBI.
4. **Directions regarding Adani Mining Pvt. Ltd:-** It is already noted in earlier order dated 16.12.2022 that vide letter dated 15.09.2012, **CD-I-9830, D-51, Page 86**, SAIL had called upon Adani Mining Pvt. Ltd. to provide mine wise submissions made to the Statutory Government Authorities duly certified by the Statutory Auditor.
5. However, in response, Adani Enterprises Ltd. vide its letter dated 25.09.2012 submitted their Statutory Auditor’s Certificate against mining experience criteria **CD-I-13005, D-59 Vol. III, page 414**. It did not submit mine wise submissions made to Statutory Government Authority by PT Lamindo Inter Multikon in Jakarta, Indonesia.
6. In the certificate dated 24.09.2012 given by Anuj Jain, Partner of Dharmesh Parikh & Co., Chartered Accountants, which was enclosed with letter of Adani

Enterprises Ltd. dated 25.09.2012, it was certified that Coal Produced and Over Burden (OB) planned by PT Lamindo Inter Multikon at Jakarta, Indonesia during the financial year 2010-11 was as under: -

Period	Over burden (OB) planned (in BCH)	Run of Mine (RoM) (in BCH)	ROM Coal (in MT)
April 2010 to March 2011	94,25,880	21,52,241	25,18,122

7. It was mentioned in the certificate that these figures have been derived from “Quarterly Report of Coal Production Activity, submitted to the Department of Mining and Energy of Republic of Indonesia and Department of Environmental of Republic of Indonesia”.
8. It was also mentioned in the certificate that Adani Enterprises Limited (through its Subsidiary) is the holding company of PT Lamindo Inter Multikon.
9. Why Adani Enterprises Ltd. had shied away from providing mine wise submissions made by PT Lamindo Inter Multikon to the State Government Authority in Jakarta, Indonesia?
10. Technical Evaluation Committee was not satisfied with response of Adani Enterprises Ltd. and as a result another letter dated 09.10.2012 was issued by SAIL to Adani Mining Pvt. Ltd. to provide mine wise submissions made to the Statutory Government Authorities with respect to coal produced and OB excavated duly certified by its Statutory Auditor, **CD-I 9731 D-51 Page 188.**

11. In the response dated 16.10.2012, Adani Mining Private Limited (AMPL) again relied on certificate of their Company Secretary who certified that information given in the certificate with respect to Coal Produced and Overburden Planned is as per submission of Quarterly Report of Coal Production Activity submitted to Department of Mining and Energy of Republic of Indonesia, **CD-I-9721, D-51, Page 198**. The Certificate had provided the information as under:

Sr. No	Period	Details of Mine with Location, address, contact details and type of mineral	Mine Owner/ Contractor	Coal/Lignite/ Iron Ore/ Bauxite/ Limestone in MTPA	Specific Gravity of the Mineral	Overburden in cum (Planned)	Composite to total in cum
1	FY 10-11	Bunyu Mine (Single Mine) Address: Mustika Ratu building, 3 <sup>rd</sup> Floor, JI Gatot Subroto Kav. 74-75 Jakarta Indonesia Mineral: Coal	PT Lamindo Inter Multikon	2.518 MTPA	1.17	9.425 MBCM	11.577 MBCM

12. Why Adani Enterprises Ltd. did not submit Quarterly Report of Coal Production Activity submitted by PT Lamindo Inter Multikon to the Department of Mining & Energy of Republic of Indonesia inspite of repeated requests of SAIL?
13. As per reply of CBI referred above, the certificate dated 24.09.2012 issued by the Chartered Accountant/undated certificate of its Company Secretary did not fulfill the requirement of eligibility. It is also mentioned in the CBI's reply that the investigation was not specifically directed to

examine this deficiency in the eligibility of the said company. It is also mentioned that the conduct of other companies who unsuccessfully applied for the award of contract was not subjected to intensive investigation.

14. In the opinion of this court, if there was investigation qua Quarterly Report of Coal Production Activity submitted to Department of Mining & Energy of Republic of Indonesia and Department of Environment of Republic of Indonesia by PT Lamindo Inter Multikon during financial year 2010-11, it would have revealed whether there was any malafide in withholding these returns and it would have shown whether certificate dated 24.09.2012 by the Chartered Accountant of Adani Enterprises Ltd./undated certificate of its Company Secretary gave true and correct information or not.
15. If the information given in the certificates was not correct, consequences will obviously follow.
16. Therefore, in the opinion this court, further investigation is required with regard to Quarterly Reports of Coal Production Activity submitted to Department of Mining & Energy of Republic of Indonesia and Department of Environment of Republic of Indonesia by PT Lamindo Inter Multikon for financial year 2010-11, a stepdown subsidiary (through its subsidiaries) of Adani Enterprises Ltd. It is ordered accordingly.
17. **Directions regarding AMR India Ltd:-** So far as consortium of AMR India Ltd. and M/s Coastal Projects is

concerned, it is noted in order dated 16.12.2022 that whereas Technical Evaluation Committee (TEC) in its report dated 29.08.2012 required copies of submissions made to Government Authorities in support of Over Burden & Coal Production, year wise and mine wise duly certified by the Statutory Auditors of the bidders, **CD-I-9850 D-51 Page 67**, Sh. Arvind Kumar, DGM (CRMG) in letter dated 31.08.2012 called upon AMR India Ltd. to provide a clarification from M/s SCCL indicating relation of Pit-II of Koyagudem OCP-II with Koyagudem OCP-II, **CD-I 9843 D-51, Page-74**. He did not call upon AMR India Ltd. to provide copies of submissions made to Government Authorities in support of Over Burden & Coal Production.

18. According to reply of CBI referred above, factually it is indisputable that there were clear cut deficiencies in the documents submitted by AMR India Limited to substantiate its claim for eligibility. It is also mentioned in their reply that the investigation did not focus on the adherence to substantive procedural provisions in the case of non allocattee/awardee companies.
19. In the opinion of this Court, matter requires further investigation to find out why work done certificate dated 20.04.2012 issued by M/s Singareni Collieries Company Limited for OB excavation from Koyagudem OCP-II and work done certificate issued by M/s SCCL for coal extraction from Pit-II of Koyagudem OCP-II were

accepted in place of submissions made to Govt. Authorities in support of OB & Coal production, year wise and mine wise duly certified by statutory auditors.

20. Further investigation is also required with regard to submissions made to Government Authorities in support of Over Burden & Coal Production, year wise and mine wise by M/s Singareni Collieries Company Limited for extraction of Coal/Shale with surface miner including loading, transportation, dumping etc at Pit-II Koyagudem, Opencast Project-II, Yellandu area, Khamman District, Andhra Pradesh as well as Blast hole drilling, controlled blasting with shock tube initiation, excavation, loading transportation, dumping etc at Koyadugem OCP-II, through contractor M/s AMR India Limited to find out whether work done certificate issued by M/s SCCL had given true and correct figures. It is directed that further investigation be carried out and report be filed in this regard.

21. **Directions with regard to M/s Lanco Infratech Ltd:-** Similarly, so far as M/s Lanco Infratech Ltd is concerned, this Court had observed in para 100 (iii) of Order dated 16.12.2022 that:

“During investigation if the copies of submissions made by LANCO Infratech Ltd to the Government authorities in Australia in support of OB and coal production were taken on record, it would have shown whether the Royalty Returns furnished by LANCO Infratech Ltd showed correct figures of OB and coal production.”

22. The response of CBI in its reply is that the conclusion of the Court as is mentioned at Para 100 (iii) is absolutely correct.
23. Therefore, further investigation is required to be conducted with regard to submissions made by M/s Lanco Infratech Limited to the Govt. Authorities in Australia in support of OB & Coal production to find out whether Royalty Returns furnished by Lanco Infratech Ltd showed correct figures of OB & Coal production or not?
24. Let further investigation in terms of this order be carried out and report be filed on **05.04.2023**. Needless to say the further investigation shall not be circumscribed by anything recorded in this order and further investigation may be conducted on other aspects as deemed necessary by the Investigating Officer considering the letter and spirit of this Order.
25. A copy of Order be given dasti, if so requested.

Announced in the open Court  
On **04<sup>th</sup> January, 2023**

**(Arun Bhardwaj)**  
Special Judge (PC Act) CBI  
Coal Block Cases-01,  
RADC, New Delhi