

## **Bhukia Update** **September 2009**

### **Developments in respect to the Central Government Mines Tribunal**

On the 13<sup>th</sup> of July we appeared in front of a double bench of the Tribunal. The matters were heard in detail. The State claimed that it was inclined to grant us our PL but could not take an undertaking as certain relevant policy decisions (lifting of tribal ban) were pending cabinet approval.

Post argument, the Tribunal very clearly expressed its view that even if it was inclined to accept the case in our favour, it could not pass any effective order in view of the pending writ petitions in the Rajasthan High Court. The Director, chairing the Tribunal observed that it may be improper for the Tribunal to pass an order in disregard of the reservation notification of the State Government (issued in Nov 2007, reserving 158 sq km for departmental exploration over Bhukia deposit) while the Rajasthan High Court was yet to take a final view on the notification.

Further, the Tribunal felt that we were amply protected by the Stay orders issued by the Rajasthan High Court in the two writ petitions. However, we were able to convince the Tribunal to re-grant a Stay of the impugned orders rejecting our PL application. The Tribunal further advised us to approach them at the earliest once the matter pending before the Rajasthan High court were resolved, so that they could set us an early date for final hearing and resolve this matter.

The Director was extremely sensitive towards our cause. He claimed that he knew of the Bhukia deposit and considered it to be the best in India. He even told the State government representatives that they should encourage the development of this deposit as it had immense economic value.

### **Developments in respect to the Rajasthan High Court**

The current situation is that a final hearing of our Writ Petitions in the High Court of Rajasthan at Jodhpur was supposed to be held on 27 August 2009. However, the Jodhpur Bar Association was on strike and lawyers were not making court appearances. We have been led to understand that this strike could go on for some time since when it started in mid August. What did happen on the actual hearing day was that our Vice President-Commercial appeared in the court where the judge and two clerks were still "working" and when our case came up for mention the judge was asked for an early hearing date in September. The judge said that was out of the question because of the continuing strike and also because the judiciary has a two week holiday from mid September. As such he was not prepared to set an early date. The judge set a date for another mention in early October. We will be maintaining close contact with the court registrar to try to ensure our case does not slip down the list.

### **Developments in respect to representations to the Rajasthan Government**

The new government has been slow in acting and taking firm decisions, but the message they are sending out seems to be clear and consistent. The Minister and the Secretary Mines have told us on numerous occasions that they are keen on seeing our project develop. They understand that we have rights in that we were given an RP and thus should be given a PL, irrespective of the Tribal Ban and the reservation. The Minister has also gone to the extent of saying that he has discussed our project with the Chief Minister.

Internal sources in the ministry have indicated that the government has already initiated the process to de-reserve the area reserved for departmental exploration in November 2007. We understand that the notification has been prepared and is pending cabinet approval.

In regard to the tribal ban, though it was lifted by the previous government, the new administration has decided to put a hold on processing applications in that area for the moment. What we understand is that the new government wants to take credit for development of this area and are working on a proposal to allocate larger resources to this belt. This proposal is pending cabinet approval.

Thus the signals from the State government are clear in that we would sooner than later be given our PL. The matter is pending a final cabinet decision on the tribal area mineral policy. It is unclear when this cabinet meeting will discuss the matter.

**Developments in respect to representations to the Ministry of Mines, Government of India, New Delhi**

We are in constant communication with the Ministry of Mines in the Central Government. In their recently released 100 day agenda, they write of introducing a new Mining act which would bring about transparency and simplicity in the concessions regime and prevent delays in grant. They are planning to introduce the new act in parliament by November 2009, based on the New Mineral Policy of 2008.

In the interim they have circulated guidelines to all State governments to give primacy to 'seamlessness' and 'first in time' for grant of mineral concessions.