

**GOVERNMENT OF INDIA
DISINVESTMENT
LOK SABHA**

UNSTARRED QUESTION NO:5896
ANSWERED ON:31.08.2001
DISINVESTMENT OF BALCO
RAVI PRAKASH VERMA;S. AJAYA KUMAR;SUNIL KHAN

Will the Minister of DISINVESTMENT be pleased to state:

- (a) whether the honourable Supreme Court had decided in the Samatha case against giving the mining lease to Government land in scheduled areas to non-tribals;
- (b) whether this judgement was kept in view and its implications critically examined before taking the disinvestment decision in BALCO;
- (c) if so, the details thereof; and
- (d) if not, the reasons therefor?

Answer

MINISTER OF STATE (INDEPENDENT CHARGE) OF THE DEPARTMENT OF DISINVESTMENT, MINISTER OF STATE MINISTRIES OF PLANNING, STATISTICS & PROGRAMME IMPLEMENTATION AND MINISTER OF STATE IN THE DEPARTMENT OF ADMINISTRATIVE REFORMS AND PUBLIC GRIEVANCE (SHRI ARUN SHOURIE)

(a), (b) & (c) In the case of the Samatha judgement, the Hon'ble Supreme Court had interpreted the Andhra Pradesh Scheduled Areas Transfer Regulations, 1959. Further in Andhra Pradesh, existing mining activity by non-tribals in Scheduled Areas has been stopped on account of Section 11(5) of the Mines and Minerals (Development and Regulation) Act, (MMDR Act) 1957, inserted by a local amendment after exercising powers given under the Fifth Schedule of the Constitution. The Supreme Court had held that in view of these Statutes, mining leases held by non-tribals in the areas included in the areas notified under the Fifth Schedule in the State of Andhra Pradesh were null and void. The Supreme Court also gave directions to other State Governments who had areas notified under the Fifth Schedule to consider whether the Andhra Pradesh Statutes should be emulated and new mining leases in such areas should be granted after a national policy emerges in this regard.

Applicability of Samatha Judgement to lands and mining leases held by BALCO was gone into carefully prior to the disinvestment. The Samatha judgement has interpreted the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulations, 1959 and in the absence of any such Regulations in the State of Chhattisgarh (or the erstwhile State of Madhya Pradesh), and in the absence of any local amendment in the MMDR Act, 1957 in Chhattisgarh (or the erstwhile State of Madhya Pradesh), the situation regarding transfer of land was entirely different in that state. It was therefore found that the Samatha judgement had no direct and immediate bearing on the disinvestment process of BALCO.

(d) Does not arise.