

**GOVERNMENT OF INDIA  
COAL  
LOK SABHA**

UNSTARRED QUESTION NO:3128  
ANSWERED ON:11.12.2014  
UNFAIR BUSINESS PRACTICES BY CIL  
Pradhan Shri Nagendra Kumar

**Will the Minister of COAL be pleased to state:**

- (a) whether Coal India Limited (CIL) has been found included in unfair business practices;
- (b) if so, the details in this regard;
- (c) the details of complaints related to unfair business practices received by CIL during each of the last three years and the current year, subsidiary-wise;
- (d) the action taken by CIL on various such complaints during the said period;
- (e) whether the Competition Commission has penalised the Coal India Limited in the recent past;
- (f) if so, the details in this regard; and
- (g) the steps taken by CIL to check such unfair business practices in future?

**Answer**

MINISTER OF STATE (I/C) IN THE MINISTRY OF COAL, POWER AND NEW & RENEWABLE ENERGY (SHRI PIYUSH GOYAL)

(a) to (g): Maharashtra State Power Generating Company Limited (Mahagenco) and Gujarat State Electricity Company Limited (GSECL), Madhya Pradesh Power generating Company Limited (MPPGCL), West Bengal Power Development Company Limited (WBPDCL) and Sponge Iron Manufacturers' Association (SIMA), Sai Wardha Power Limited (SWPL) have filed Application before the Competition Commission of India (CCI) against CIL and its subsidiaries related to the terms and conditions of the Fuel Supply Agreements (FSAs) while the case filed by Shri Bijay Poddar related to the conditions in the spot e-Auction scheme of CIL.

The terms and conditions found to be anti competitive by the Competition Commission of India (CCI) include the provisions regarding sampling and testing of coal for consumers in power and non-power sector, clauses in relation to performance incentive, compensation for oversized coal and stones, supply of coal under the MoU, requirement of Financial Guarantee in case of Cost Plus mines; the pricing formula in the FSA for Cost Plus customers.

In relation to the case involving spot e-Auction scheme, the CCI has found CIL to be imposing an unfair condition of non reciprocity of the requirement of paying penalty in form of earnest money deposit. In addition to this the CCI has found CIL to be unilaterally drafting the terms and conditions of the FSAs without consulting the stakeholders and customers.

CCI has imposed a penalty of Rs.1773.05 crores on CIL in its order dated 9th December 2013 in the case filed by Mahagenco and GSECL for imposing unfair terms and condition in the FSAs for supply of coal to power sector consumers.

CIL has preferred an appeal against this decision under sub-section (1) and (2) of Section 53B of the Competition Act, 2002 before the Competition Appellate Tribunal (COMPAT), New Delhi. COMPAT had stayed the order with a direction to deposit Rs. 50.00 Crores till the final disposal of the Appeal, which has been complied with.

CIL has preferred Appeals before the COMPAT in all other cases also.

However, as part of its ongoing internal review, CIL made a number of amendments / changes in the clauses of the FSAs during the pendency and post the decision in these cases, which include inter alia the;

(A) Amendments to the clauses in the FSAs for Power Sector:

# Clauses on review and termination has been amended and made consistent with old power plants; includes a reference to Gol for dispute resolution

# Force Majeure clauses have been amended and made consistent with FSAs for old power plants.

# Cap on compensation for oversized coal and stones for new power plants at 0.75%; has been amended and this cap has been

removed for those plants who receive coal from CIL exclusively.

# Sampling procedure adopted by CIL has been amended to introduce third party sampling at loading end.

(B) Modification in the Cost Plus FSAs considered

# Financial Guarantee: CIL has done away with the requirement of furnishing a bank Guarantee for government and private power players who have Power Purchas Agreements (PPAs).

# Performance Incentive: CIL has limited the applicability of the performance incentive clause in case of Cost Plus mines to situations where the contract price for cost plus coal equals or falls below the price notified by CIL.

# Price escalation formula: The pricing formula for determining the contract price for coal for cost plus mines has been modified to rely on the cost indices such as, Wholesale Price Index, All India Consumer Price Index, etc. This price determination will be done bi-annually.

(C) Amendment of clauses of spot e-Auction Scheme:

# The period of depositing coal value by successful bidder has been extended from 7 working days to 10 working days.