STATEMENT OF SHRI MANOHAR PARRIKAR, HON'BLE CHIEF MINISTER ON THE MATTER OF SHORT DURATION DISCUSSION REGARDING MINING LEASES

The Mining Leases in the State of Goa were initially granted as concessions which came to be abolished by virtue of the Goa, Daman & Diu Mining Leases(Abolition of Mining Concessions and Declaration as Mining Leases) Act, 1987.

Pursuant to this, all the erstwhile concessions were converted into mining leases and were renewed for a period initially for ten years and thereafter the period Renewed Lease came to be treated as renewal for twenty years being the First Renewal.

In terms of sub-rule (8) and (9) of Rule 24(A) of the Mineral Concession Rules, 1960, an application for first renewal of a deemed mining lease referred to in Section 4 of the Abolition Act was required to be made to the State Government before the expiry of six months period as provided in Section 5(1) of the Abolition Act. There was a power in the State Government to extend it by another one year. The State Government did in fact extend the time for making applications for first renewal upto 22nd November, 1998.

All the Concessionaires in the State of Goa, who had filed the applications by 22nd November, 1988, were renewed, and these renewals were to expire in the year 2007 i.e. on 21st November, 2007 after a period of twenty years as contemplated by the MMRD Act.

Most of the lease holders filed their applications for second renewal one year before the expiry of the period of lease as required in terms of the Rules. The then State Government of Goa initially headed by Shri Pratapsingh

Raoji Rane until June, 2007, and thereafter the Government headed by ShriDigamber Kamat till 2012, although had a duty in Law to dispose of these applications for renewal, singularly failed to either deal with or dispose of these applications. Indeed, out of 409 applications seeking renewal which were filed and pending only eight applications came to be dealt with and renewed, that too in the year 2010.

As a result of this, the then State Government of Goa allowed the working of the mines from 2007 till 2012, based on Deemed Extension Basiswithout actually dealing with the renewal applications which were filed by the Mining lease holders well within time. Non-disposal by the then State Government cannot be attributed to be the fault of the lease holders.

The Hon'ble Supreme Court has in its Judgment and Order dated 21st April, 2014 clearly held that the action of allowing the mines to be run on Deemed Extension Basis from the years 2007 to 2012 was completely illegal and has further declared that the so-called deemed mining leases in the State of Goa have expired in the year 2007.

After my Government took over on 9th March, 2012, and after examining the matter from several angles including the then Public Accounts Committee Report, the Hon'ble Mr. Justice Shah Commission of Inquiry Interim Report, and having regard to the factual situation, ordered stoppage of the mining operations in the State of Goa by Government Order dated 10th September, 2012. This Order was unsuccessfully challenged in the Hon'ble Supreme Court of India by the lease holders, and in the aforesaid Judgment and Order of the Hon'ble Supreme Court, the Order passed by State on 10th September, 2012 has been specifically upheld and Hon'ble Supreme Court

has further declared that the said Order will have to be continued till decisions are taken by the State Government to grant fresh leases.

Few things emerge out of the Hon'ble Supreme Court's Order. In the first place, the mining leases have been held to have expired in the year 2007. In the second place, the State Government has been directed, in accordance with its policy to grant fresh leases in the State.

With these, the options available with the State Government are as follows:-

a). The State Government can directly auction the leases in order to secure the best returns for the grant of leases by way of a competitive bidding, process,

b). The State Government can also form a State Corporation and undertake the mining activities through the State Mineral Development Corporation,

c). The State Government could also proceed to grant fresh leases, in terms of the MMRD Act by following the process of preferential grant of leases to certain persons as specified in the MMRD Act.

d). Yet another option available to the State Government was to decide the renewal applications which were pending since the year 2006 and which had remained without any disposal,

Each of the aforesaid modes has its own merits and de-merits.

While there cannot be any gainsaying that the mode of auction could have brought in possibly and probably a greater revenue share for the State of

Goa on account of the competitive bidding and the consequent match-bids, it has also certain risks involved in it, namely it would have involved inviting unknown business interest, who are often referred to as mining mafia , to carry out and undertake mining activities causing risk and danger to the several areas including ecological factors. The Hon'ble Supreme Court's Order dealing with Karnataka is an eye opener for everyone to see.

In so far as reserving the area in the State to undertake mining activities, this would have required forming of a Corporation or an Agency to carry out and undertake the work of mineral excavation as well as selling the ore or through export. This would involve several logistical issues including formation of a Corporation, which has to undertake the obligations flowing from being a "State" , the absorption of the existing work force , apart from the inefficiency and corruption that plague the Public Sector Enterprises by and large, which pose serious challenges

Following the preferential mode by giving it to those operators who have already excavated the area in the earlier term or giving it out to those who have surface rights or who have obtained consent of surface rights was yet another option.

The aforesaid each one of the options were actively under consideration of the State Government. The matters were being considered at various levels and its pros and cons were being examined by applying the relevant and material consideration. While the State Government was in the process of deliberating on all these issues at various levels, the Judgment and Order of the Hon'ble High Court in Writ Petitions filed by certain lease holders came to be delivered on 13th August, 2014 whereby the Hon'ble High

Court has directed the execution of the Lease Deeds under Section 8(3) of the MMRD Act in favour of the lease holders who have already paid the stamp duty pursuant to Orders of the State Government in accordance with the Goa Mineral Policy, 2013, placed before the Hon'ble Supreme Court and subject to the conditions. AllAuthorities, be it Civil and Judicial, in terms of Article 144 of the Constitution of India are required to act in aid of the Hon'ble Supreme Courts and the law declared by the Hon'ble Supreme Court is binding on all the Courts within the territory of India under Article 141 of the Constitution of India.

While it is a matter of natural choice for the State Government to have considered, while framing a policy, for granting fresh leases even to the existing lease holders to follow the process of competitive binding, may be on a limited scale and limited to certain class of bidders by specifying a minimum bid criteria, the Judgment of the Hon'ble High Court is an intervening factor, directing the State Government to execute the 27 Lease Deeds and decide the pending applications in accordance with law. This Judgment and Order of the Hon'ble High Court virtually leaves no choice to the State Government, thereby to completely abandon the process of competitive bidding for earning the best revenue to the State Government. While this was the position taken by the State Government in the Goa Mineral Policy, 2013, and the Hon'ble High Court has interpreted the Order of the Hon'ble Supreme Court in Writ Petition (Civil) No. 435/2012, the State Government in view of Hon'ble High Court Order, has for the present ruled out the process of going for competitive bidding. The State Government is considering actively, within its Constitutional powers and functions, to come out with regulatory and controlling measures and levy and collect appropriate returns having regard to the fact that the soil comprising the land belongs to the State . So long as there

is a direct relation of the land, the State Legislature can for the purpose of augmenting the revenue resources of the State as well as to compensate the State not only for rendering services by the State including pollution control, prevention of ecological damage and also other ecological measures but also to regulate and control the subject of land which is excavated. The State Government has also commenced the inquiry and investigation into the violations of matters under Rules 37 and 38 of the Mineral Concession Rules, 1960 as directed by the Hon'ble Supreme Court.

The State Government, upon a result of the inquiry commenced and undertaken impose appropriate fines and put penal consequences including cancelling, revoking or rejecting the lease deeds or applications for renewal in respect of those lease holders who are found guilty. While in terms of the Judgment of the Hon'ble High Court, Lease Deeds are to be executed in 27 cases and the pending applications have to be considered. the State Government shall not consider those applications which are in Wild Life Sanctuary areas or areas which are otherwise protected. At the same time, notwithstanding the fact that pursuant to the Order of the Hon'ble High Court in such cases, Lease Deeds are to be executed or renewals are to be granted, all such Lease Deeds and grant of any renewal will be subject to the outcome of the inquiry under Rules 37 and 38 of Mineral Concession Rules, 1960 in terms of the Hon'ble Supreme Court's Order and the State Government will also impose such and other conditions/restrictions on undertaking of any mining activity. Any mining activity undertaken by the State will of course be subject to and in accordance with the Rules framed by the State Government in the year 2013.