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Editorial

An initiative for Transparency, or a Disguise

Web Portals, typically used as a platform to a plethora of information generally based around a certain faction of the economic sector are also being introduced to the mining sector by the government. The Odisha Government Portal, has taken an initiative to provide information on activities such as the daily movement of Ores and trucks carrying them, Providing Pit Mouth Value, Company and Grade wise Opening Stock, Production, Dispatch and Closing Stock details, etc.

But is this really enough? According to the state this mechanism of adopting online contracting and services brings into perspective, efficiency in granting concessions and ordinates the state in becoming more revenue compliant.

Yet one faces a dilemma as there is no information provided on issues that closely relate to and concern people, such as

- The outcomes of a projects public hearing
- Forest rights
- Gram Sabha resolutions

As the main motive behind the introduction of an online database is to provide for transparency, there is a real lack of effort in the humanistic terms. There is no information in terms of how efficiently the federal system is working, and the outcomes and results concerning the legal framework.

The ministry of mines, has organized for a tenement registry portal, which allegedly “is intended to bring about computerization and automation in the functioning at the State Directorates of Mining & Geology (DMG) of 11 States, IBM, GSI and Ministry of Mines with a view to bring efficiency and transparency in various processes and functions at the State and Central Government level as the mining activities are monitored at both State and Central level.”

The Directorate of Geology and Mining has published that the System will display physical location of every tenement in the Geographical Information System (GIS) along with relevant attribute data. All these database objects will be called registry component. IBM also intends to develop a web enabled database for facilitating the entrepreneurs to apply for obtaining various types of mineral concessions (mining tenements) as per the procedure described in Mineral Concession Rules, 1960.

The data on hand will be under the control of the government. It would also not be wrong to say that the data being provided is for a certain restricted target group in the mining industry, the entrepreneurs.

Again certain issues that clearly need to be highlighted have been completely ignored. What about the role of the Panchayats. What about providing some lucidity the decision making processes i.e. the approval/ disapproval of mine closure. This would have enabled a needier user to see their decisions online.

Realistically, the government should integrate information which is more user friendly and addresses information needs of different stakeholders. Like mining lease conditions, mining plan, complaint and redressal mechanism to curb violations etc. In 2010, the Central Information Commission (CIC) passed an order on making mining plans public with certain limitations but nothing has moved since then? If the purpose is to make system transparent, there is a need to rethink an all round development of information systems for better regulation.

The current information system largely deals with a 'physical nature' repository of information for businesses. This is more towards managing allocations or concessions for a particular mineral leaving the soft elements unresolved and whether this repository of information funnels through the laws and protections before resources make an exit from the environment. Because whether it is the Ashok Chawla committee on allocation of natural resources or the concept of Sustainable Development framework in the Mining Bill, people and their relation with natural resources and thus sustainability cannot be ruled out while making decisions with misinformed facts and cannot be left to the choice!

In reaching out to a decision, the issue of federal relationships between Centre and State should not become a bottleneck or point of contention to award right decision.



The News Dimension

In Chhattisgarh, the government is proposing a rail corridor through rich forests for the purpose of evacuating coal and providing a link to coal blocks in the region. Ho'ble Supreme Court of India has recently ruled that minor mineral mining leases by the state governments and Union territories will need environment clearance from the Union Ministry of Environment and Forests (MoEF). But the mega railway projects that too primarily dedicated for mineral evacuation have not been brought to the environmental clearance process. How fair is this!

Mining has always been known as one of the most dangerous occupations and it has proved to be so. A number of lives were lost during illegal mining activities, the death of ten labourers during an illegal mining operation in Sonebhadra, Uttar Pradesh and the accident of an IPS officer Narendra Kumar who kept a vigilant check to curb illegal

mining in Morena, Madhya Pradesh. Satish Kumar survived by fraction of a second as he was also going to be run over by a lorry of a sand Mafia in Tamil Nadu. A journalist with The Hindu Chandrika Rai was murdered along with his family in Madhya Pradesh, he was known for reporting against the mining mafia in the state. This is not history in terms of timeline but these are forgotten stories and known across a small cross-section of people. The impact is seen across the spectrum i.e. Media, Police, Journalists, Activists and workforce working in mines.

It is axiomatic and acknowledged that illegal mining mafia cannot subsist without any kind of political patronage and moreover the Madhya Pradesh government has already been inculpated for being involved in various illegal mining activities. It is unfortunate that a profound incident such as death is needed for the government to notice and take an action against the perpetrators. The demand for a comprehensive law for whistleblowers has been stirring in the air for a while now but not enough action is being taken for it. In today's time when the government asks its citizens to help fight menaces in society it does not provide its citizens with a substantial guarantee that his/her life won't be at stake for the action that he decides to take. A law for whistleblowers with helpful provisions is definitely required.

Manohar Parrikar was sworn as Chief Minister of India's most awfully beautiful but paradoxical state of Goa. His main agenda during his campaign was to curb illegal mining in the state. Justice Shah's investigation will study all aspects of illegal mining, including the environmental impact and exports of iron ore, and is likely to play a crucial role in plugging loopholes in existing policies. The commission is believed to have reported that more than half of the operating mines have committed illegalities on various counts, ranging from violation of environment norms to mining outside permitted areas. The commission is also believed to have found several front companies operating in the mining industry. It also made an assessment of exports of iron ore to foreign countries.

In recent findings, water experts have warned that India's major rivers, including Ganga, Yamuna, Narmada, Krishna, Godavari and Chambal could soon dry up due to blatant sand and gravel mining being spearheaded by the mining mafias. Kerala's second longest river Bharathappuzha personifies what sand mining can do to a river. A river that was once known as the rice bowl of Kerala faced one of the worst draughts in 2011.

The Centre has decided to ask governors to use special powers in tribal-dominated areas and consider cancelling mining leases given to state agencies and corporate houses. Under the Fifth Schedule of the Constitution, Governors are given special powers in Scheduled Areas, governors can direct that any particular law passed by legislature or Parliament may not be applicable to a Scheduled Area for the purpose of "good governance and peace" in these areas.

The National Green Tribunal is hearing cases on environment including impacts of mining and irrationality in the due process outlined for safeguarding environment, forests and People. While a few public interest lawyers are arguing cases everyday to save grace of environment and the laws governing it, the mining scams are only revealing the hidden truths behind the larger expanse of mining. As it seems, tribunal's court rooms are adjudicating issues which government fails to recognize and apply its mind – hoping that some evolved process may come out.

In the meanwhile, the Mining bill has been placed before the standing committee (Coal and Steel) in order to invite suggestions from official and non-official witnesses. So far 5 such sitting have taken place. After this process which is expected to finish before the Monsoon session of Parliament, the committee will place its report in the Parliament.

(see more on page 11)

Costing Communities and Compromising Rights

1. **Confused State**

A mining lease of iron ore over 28.397 hectares working from June 2006 applies for expansion of production in 2008 in Koira Circle of District Sundergarh. They realize that a land parcel of 1.42 acres belongs to a ST (private ST land) – *the survey was done in 2005?* They obtained consent from the land owner. The Collector after checking with the Joint Secretary to Government (R&DM Department) wrote a letter to the proponents (MGM minerals) that any grant of surface right or giving consent for mining operation by tribal person would amount to transfer of immovable property. Instead, he advised the proponents to file land acquisition proposal in respect of ST land under L.A. Act? The proponents did so, as advised. Again in August 2012, the Under Secretary writes back to Director of Mines to clarify whether ST land can be acquired under the provisions of Act and Rules or the area can be excluded from the granted mining lease area!

Such information is vital for keeping the constitutional safeguards for tribals intact which becomes an important tool in making decisions at the intention stage. The survey (mining lease) by the state was done in 2005-06, how this could have missed is a question to be asked. The forest clearance letter written during the same time mentioned 'non-forest private land' for which a clarification letter was written after 3 months stating that the word private be deleted. Whether it was a mistake or the truth which unintentionally got carried in this letter?

Another aspect is the state of confusion among the different tiers of government. The involvement of 4 most responsible officers and their communication with each other reveals how the issue of tribals and their rights is poorly understood in a state where more than 22% of tribal population lives? What about mining in the state where such

situations are bound to occur and may have been already in such situations. Something has to be clearly spelt out in the new / amended legislations on land and mining about such issues

2. **Benami Proponent**

East Godavari district is a tribal dominated region and has got scheduled area status as well as areas which are not Scheduled are covered in Tribal Sub-Plan. Laterite is a mineral found in abundance as a capping layer over even more premier mineral called 'bauxite'. Laterite in this part is meant to be used in cement industry but in the guise of mining this particular mineral, illegal bauxite mining is not ruled – a matter of placing precautionary process in place. The credentials of the proponent has been challenged who allegedly is a front of a company and the misfortune that the EIA prepared by the consultants misrepresents several facts and is grossly inadequate in addressing the socio-ecological situation has been brought to light by civil society. There is no transparency by the forest department as far as the status of forest rights is concerned and the issue of 'enclosures' in the forest areas (village settlements) which require the status of such settlements to award titles and pass through forest clearance.

More exclusive coverage in the next issue.

3. **Guess What?**

More than 104 sq. kms of mining lease area comprising of Bauxite, Limestone, Iron and Manganese, Copper and minor minerals considered by the Expert Appraisal Committee of MoEF in one of its meetings in June 2012. 59 projects were placed before the committee, many of them remained merely proposals i.e. neither transformed into a TOR or recommendation for Environmental Clearance, thanks to lack of details and information submitted by the proponent, prepared by the consultant.

It is not a small area for which 15 similar proposals to mine river bed over an aggregate area of 928 hectare were tabled and prepared by a SINGLE consultant. In Uttarakhand SEIAA is still not constituted otherwise this would have gone unnoticed and this raises question over quality of assessments that may emerge given such proposals are cleared without doing due diligence. The forest outgo is likely to be (if the forest clearance comes through) 31 sq. kms., (almost 30% of the total area proposed for lease but this may vary and only corresponds to listed proposals in a meeting) interesting is the fact that minerals have become so important that forests have become secondary, around 5 such proposals have their mining lease area entirely in forest area (around 5.18 sq. kms) and another set of five projects having more than 40 to 75% of the mining lease area as forest area. Majority of them are from Orissa and Jharkhand, it is no doubt that with every such consideration of mining proposals cumulative decrease in large area of forests is inevitable as these two have always co-existed alongwith tribals.

The number of Human Rights violation and attacks on human rights defenders has been increasing in the recent past, the recent being a gun shot on Ramesh Agarwal, who survived with a severe injury to his leg. Mining is becoming prime over other resources, in the state of Rajasthan, water is required to be sourced from nearby villages through tankers for a limestone mine. Bhaitarni River has become a major source of water for mining and industrial purposes in Jharkhand, Orissa. Only these many projects require 58 million litres water per day? One of the projects is entirely over agricultural and grazing land for a limestone mine in Damoh, Madhya Pradesh. In Keonjhar it is observed that the water has high iron content, the recommendation is to source potable water for all villages in 5 km distance of mine lease where no municipal supply is available - this issue may get lost in the confusion 'whom to provide water'.

Justice for Ramesh may throw open the truth behind such acts. In this maze of vast, rapid and unmindful resource allocation for mining, the written decisions may not reflect transition to ground and several human rights defenders need a strong protection and fast action against the initiators.

4. **If it is Illegal Mining but.....**

If it is legal mining, the top Safety Authority for mines i.e. Director General of Mines Safety always runs short of the 'human resource' (see box below). In an RTI filed to the Director General of Mines Safety (DGMS) on the accident in Billi's Stone quarry (District Sonbhadra, Uttar Pradesh), the DGMS says as this is an illegal mine this does not come under the purview of Mines Act 1952 and it is State's prerogative. 12 people had died and many injured in this accident on 27.02.2012. What does one say about the endemic problem of vacancy and rising accidents!

The DGMS has a total sanctioned strength of 167 technical officers/Inspecting officers at different levels. Of these, 15 to 20% of posts remain vacant at any given time due to time lag in recruitment etc.

Q.4. Should the DGMS not be made to account for the accidents in mines?

A: Working the mines, obtaining mineral and ensuring protection of their Human Resource is primarily the management functions. Management makes necessary provisions for the purpose keeping in view the profitability of operations and statutory provisions in this regard. Just as profits from the operations go to the managements, any consequences in the process including accidents must also be the responsibility of the management.

Source: DGMS Website's FAQ

Looking Deep in SUKINDA

Sukinda is a name every chrome merchant or refractory industry will know as a basket of chromite ore in Jajpur District of Odisha – 97% of Country's Chromite is found here. Communities still live here even after the pits have been dug, ore removed, environment polluted because they have not got justice while everything else is getting cleared!

Background & Relevance: Chromium is the first element of group 6 of the periodic table and forms part of transition metal / elements. Sukinda (District Jajpur) in Odisha is a natural monopolist in terms of reserves, occurrence of Chromium, mining of Chromium and pollution load due to mining and industrial processes. Such a high concentration of a metal at one place poses two critical environmental questions both as relating to safeguards and the other to conservation and sound management practices: Whether sound management processes are in place thereby giving due regard to physical and biological environment (as the floodgates for mining opened) and What would be the mine closure cost and medium by which the land can be restored (*we are leaving here whether the impacts were told to people during the process so that the informed decision about mine closure could become objective and should therefore reflect in the objections or issues they raise during public consultation but this place seems to be a common ground to mine chromite and it attracts attention to reconsider human and physical environment damage*). The instance of mining and metal finishing industry is in close sync with each other and environment release of Cr^{+6} under high temperatures is no secret nor is its impacts over land and people. Cr^{+6} or hexavalent Chromium is a known carcinogen and its environmental release in the atmosphere is unregulated and poorly measurable (release from various channels during combustion in industrial processes and processing of ore), thereby posing high risk to population consuming water, food as well as breathing air and toxic dust falling daily over body and materials. Apart from this environmental apathy,



there are several social issues which remain unaddressed like health, civic services, trauma of displaced or to say application of directive principles.

Although environment as whole is common for all but when pollution generation is unavoidable, the chances of violation of fundamental rights of people living in the proximity or the influence zone becomes high and becomes a prime responsibility of the polluter, regulator and State government. How these three arms or institutions come together to respect the Rights of those who bear the brunt of resource exploitation and damages / impacts – both in one way a loss making proposition for the locals.

As mining activity has seeped for very long here (mining picked up in 80s and is now expanded to over 3000 hectares¹), remedial measures, essentially those pertaining to degraded land, polluted water & air be upstaged. The curse remains even after the last

¹ There are 35 Chromite mining leases over an area of 9432.57 hectares as reported by Ministry of Mines as of 31.03.2011. Also more than 60% Chromite produced in the country during 2007-08 was exported; the figure remained 55% for 2006-07.

leg of the mining cycle but preparing progressive and final mine closure plans in participation with the people will become imperative, if not this would impact the rights of people post closure too. Because closure plans are meant to restore the area as far as possible to the nearest situation before mining began. It is the right of the people to enjoy the similar environment (post mining) and demand cleanup and restoration of land, water, air and their livelihoods.

Demanding an epidemiological health study with specific focus on occupational health is needed to ascertain the post operation instance of diseases. It is distressing to hear how the Orissa government has said, "It is unique, it is gigantic and it is beyond the means and purview of the [Orissa Pollution Control] Board to solve the problem." The saddest part is that the authorities have just left these poor people in their miserable state to decay amongst the waste.

POLLUTING SHAME: There is no information available in the polluted zones to take precautionary measures but that can only be useful once the facility that causes pollution disseminates information on basic environmental regime by enabling monitoring coupled with health diagnosis and causative relationship of chemical / compound with its possible environmental fate.

Here is a brief about chromite and some precautionary measures outlined by USEPA. However, it is no replacement for adhering to stricter environment monitoring, remedy and improvement in production systems to reduce pollution at source? Our Constitution under article 21 provides for Right to Life and personal liberty and 48A provides for directive principle of State policy to protect and improve environment.

Chromium and Few Facts:

Established by Intensive Studies conducted by Agency for Toxic Substances and Disease Registry.

Chromium in Environment

- Chromium can be found in air, soil, and water after release from the manufacturing facility, use, and disposal of chromium-based products. Chromium does not usually remain in the atmosphere, but is deposited into the soil and water. Chromium has the ability to change to or form different compounds in water and soil under the available conditions.
- Chromium (III) is less harmful than Chromium (VI). Whereas Chromium (VI) can be reduced to Chromium (III) in different environments, similarly Chromium (III) can oxidize to form Chromium (VI). However, reduction of chromium(VI) to chromium(III) generates reactive intermediates, which may produce adverse effects.
- Surface runoff from soil can transport both soluble and bulk precipitate of chromium to surface water. Soluble and unadsorbed chromium(VI) and

chromium(III) complexes in soil may leach into groundwater. The leachability of chromium(VI) in the soil increases as the pH of the soil increases.

Chromium and Health

- Chromium(VI) compounds are highly corrosive to the gastrointestinal tract and can lead to hepatic, renal, hematological, and neurological effects (Clochesy 1984; Coogan et al. 1991a; Diaz-Mayans et al. 1986; Iserson et al. 1983; Kaufman et al. 1970; Kumar and Rana 1982, 1984; Samitz 1970; Saryan and Reedy 1988).
- The reduction of chromium(VI) to chromium(III) in the stomach is greatly enhanced at low pH and shortly after meals due to increased gastric juice secretion (De Flora et al. 1987a). Therefore, administration of food might help decrease the gastrointestinal absorption of chromium. The enhanced reduction of chromium(VI) at low pH suggests that, theoretically, oral administration of bicarbonates and antacids should be avoided.
- Other recommendations for reducing gastrointestinal absorption of chromium include diluting with water or saline followed by gastric lavage (Schonwald 2004). Inducing emesis with syrup of ipecac is not recommended because of the possibility of irritation or burns to the esophagus (Nadig 1994; Schonwald 2004).
- In cases of dermal exposure, the skin should be thoroughly washed to prevent chromium absorption by the skin (Haddad et al. 1998; Leikin and Paloucek 2002; Schonwald 2004). As chromium(VI), but not chromium(III), is readily absorbed by the skin, ascorbic acid in the washing solution could reduce chromium(VI) to chromium(III), thus decreasing absorption.
- Application of the calcium disodium salt of ethylenediamine tetraacetic acid (EDTA), which acts as a chelating agent, has also been recommended after washing with water and application of ascorbic acid (Nadig 1994), especially in cases where the skin has been cut or abraded (Burrows 1983). Ascorbic acid was found to protect chromium-sensitive workers who handled chromates in the lithographing and printing industries from dermatitis. The ascorbic acid (10% solution) was kept near the work areas, and the workers soaked their hands and forearms as soon as possible after handling the chromate mixtures.
- Thorough irrigation with water has been recommended if the eyes have been exposed (Haddad et al. 1998; Schonwald 2004).

IMPORTANT EVENTS OF QUARTER**Parliament Sessions Concluded**

Lok Sabha Session IX (22.11.2011 – 21.12.2011)

Number of Questions on Mining: 25

12.12.2011

Bill No. 110 of 2011 – The Mines and Minerals (Development and Regulation) Bill, 2011 introduced in Lok Sabha (Ministry of Mines), find the bill at

http://164.100.47.134/New_Events_LS/writereaddate/Mines%20110%20of%202011.pdf

Bill No. 28 of 2010 – The Petroleum and Minerals Pipelines (Acquisition of Rights of user in Land) Amendment Bill, 2011 introduced and passed by both houses (Ministry of Petroleum & Natural Gas)

27.12.2011

Bill No. 97 of 2010 – The Whistle Blowers Protection Bill, 2011 introduced and passed by Lok Sabha (Ministry of Personnel, Public Grievances and Pension)

05.01.2012

MMDR bill referred to Standing committee on Coal & Steel

News From Mining Quarters

Rajasthan: Illegal mining in alwar kills 10 labourers- Source: India Today online

Mining in Aravalli continues unabated despite a Supreme Court ban on it. The consequent price in terms of human casualty is huge - on Thursday, at least 10 labourers were feared killed when a stone mine collapsed due to blasting in the forest land near Bhiwadi in Rajasthan's Alwar district. Five bodies were found, including two, on Friday. An operation was on to recover more bodies. With this, the total toll related to mining activities in the district has risen to 48 in the past two years. Alwar SP Umesh Dutta conceded that the deaths were related to illegal mining activities in a forest in Tijara tehsil's Chuharpur village. The police filed a complaint in the incident and detained five persons. Raids were being conducted to nab others.

In 1992, the Centre had notified Aravalli in Haryana's Gurgaon and Rajasthan's Alwar as an ecologically protected area (EPA). The same year, the Supreme Court imposed a blanket ban on mining in the fragile range. But the authorities failed to check the mining mafia because of an alleged nexus between the mafia, local politicians, the police and forest officials. In 2010, the Rajasthan government, in an affidavit to the apex court, said it had ensured that no illegal mining took place in Alwar.

But the problem does not end there. Along with the opposition to all of this illegal activity, the mining mafia steps in. The Mining Mafia is deeply rooted around the mining activity taking place but they are also well linked up and involved with the illegal activity taking place in other states. The Mafia not only killed a young IPS officer, Narendra Kumar Singh, as he was trying to stop a tractor carrying stones in Bharmor sub-division in the Morena district of Madhya Pradesh. But Within three months of mowing down IPS officer Narendra Kumar, the mining mafia of Madhya Pradesh's Morena killed another policeman on Tuesday, this time in Rajasthan. Mahendra Singh a head constable posted at Sagarpara police out post, was crushed by a truck which came to Dholpur carrying illegally-mined gravel from Morena on Tuesday.

Loophole in Governance

The guidelines under the Central and the state enactments, call for a sketch of the mining area when a mining lease is applied for. It was found by the Lokayuktas that sometimes the actual mining areas are not related to the sketch given with the applications without officials crosschecking them. Further mining applicants falsely claim a prohibited forest area as a revenue area. Finally the actual area of the mine is much bigger than the claimed area. Not only so but recent uncovering of Scams have revealed the involvement of high ranked politicians of states in the core of the entire illegal mining **modus operandi**.

Goa Chief Minister Digambar Kamat has come under fire for allegedly shielding a full-blown mining scam rampantly going on in the state for several years. The allegations of Rs.10,000 crore mining scam in Goa has landed Kamat in the eye of a storm. Kamat, who has also been the mining minister of Goa for over a decade, has come under scanner for protecting the mining lobby and has been accused of ignoring complaints.

– India Today

Illegal mining in India could be a much bigger game than the headline-grabbing 2G scam. In just two states — Goa and Karnataka, the government lost about Rs 36,000 crore — money that could feed half the country's 400 million poor for a year — because of illegally extracted iron ore. "Annual illegal mining should be worth over Rs 1 lakh crore," says a former mining secretary, on the condition of anonymity.

–South Asia Citizens web

Goa Chief Minister Manohar Parrikar's statement Monday that there was no illegal mining in the state is in contrast with his observation in the budget speech. In his March 26 budget speech in the state assembly, Parrikar, who also holds the mining portfolio, had said: "Speaker Sir, I'm personally aware of the fact that the rural Goa is suffering on account of rampant mining activity, legal as well as illegal. I reiterate the commitment of my government to forthwith stop all forms of illegal mining."

“Incessant operations of illegal mining in the state has a tremendous negative impact on the environment, health of the people living in the mining 43 belt, valuable revenue loss to the exchequer, as the operators do not pay the due royalty on the ore exploration. I wish to categorically assure the House, that my government would under no condition tolerate any instance of illegal mining in the State,” he had said in the speech.

– www.thaindian.com

The Real sufferers

As the mines are illegally operated, these no one to keep a check on the required health and safety standards. Coal diggers and suppliers (Cyclewallahs) risk their lives working under the roofs of unstable mines that are extremely volatile in their structure. In the last 15 years more than 350 people have lost their lives in illegal coal mining, some being crushed to their death by collapsing of the mine walls and some by contracting diseases like Anthracosis and the Black lung Disease. Families of deceased miners do not receive any compensation or financial aid as they were mining illegally. And if caught miners can be sent away to prison under the 'Goondas Act'.

Lingering questions

As two police officers fall victim to the Mining Mafia, no solution can be clearly seen within grasp. The role of Government officials supposedly looking over areas administered to them was always in question.

In accordance with PESA, 1996 every time a mining clearance is given the Panchayat has the right to question the decision and not comply with the decision taken if it poses a threat to villagers. There is no guarantee or provision, if a Panchayat or a Gram Sabha rejects a proposal, whether its decision will be honoured.

These are some questions that need to be urgently answered along with the numerous others inquiring the credibility of officers and ministers looking over mining matters.

There is a sheer lack of transparency in the entire process of administration of mining. Not only so, but not a lot of work is being done on the governments tab to help the real victims of illegal mining. There are various underlying factors that need to be addressed in order to help those that are being affected by this activity the most, the miners that are forced into working in these mines due to several unfavorable conditions.