Chapter IV
Mining, Pollution and Judicial Activism against
Kudremukh Iron Ore Company

Mining is an economic activity that consists of the extraction of potentially usable and non-renewable resources from land or sea. It is one of the oldest industrial sectors not only for providing raw materials for industries but also to bring economic and social development in remote and poorly developed areas. The Karnataka State domination is often associated with industry but it is arguably more widespread agrarian economy especially the old Mysore area that had an established network of Tanks and canals\(^1\) had drastically transformed the economic and social relations in the countryside.\(^2\) The first major steps at industrialization started in 1911 when the Mysore Economic Conference\(^3\) under the initiative of Sir. M. Visvesvaraya.\(^4\) The economic reforms based on state-capitalist model of development with heavy industries and technology, but resigned from his post due to emergence of Non-Brahmin Movement and to the increasing criticism raised against economic policy.

The State were considered as the dominant actor, but the aim nevertheless was capitalism, which led to certain contradictions in the case of Mysore, controlled by an imperial centre, which was in opposition to peripheral industrialization. The new mixed economy approach was followed in the 1930s were private entrepreneurs were

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1 Esha, Shah focuses on understanding how power relations operate and orchestrate the domain of technological designs and by that means resource distribution in order to reproduce. Esha Shah (2003): Social Designs: Tank Irrigation Technology and Agrarian Transformation in Karnataka, South India, Orient Longman, New Delhi, p-18.


3 The Mysore Economic conference was held in 1911 as an economic-political counterpart to the representative assembly was to have the following composition: President (The Dewan of Mysore), Vice-President (the members of the council) Members (Selected heads of Departments), Deputy Commissioners, prominent agriculturists, merchants etc). See Sunil, Khilnani (1997): The Idea of India, Penguin Books, p- 38.

4 The biographical sketch of Sir M. Visvesvaraya giving the main outlines of his work during a period of 50 years. See Y.G. Krishnamurti (1941): Sir M. Visvesvaraya: A study, Popular Book Depot, Bombay.
to supported and encouraged by the government which came to know as Mysore model of development. The Government was a shareholder in 12 companies and the role of the state still became stronger which was due to weak private capital. The striking feature of Karnataka’s economy before Independence was the dominance of industrialization with small-scale iron and steel plant at Bhadravathi in Shimoga district in 1923.\(^5\) The emphasis on state owned industries were concentrated only in old Mysore and Bangalore, which led to uneven development of Karnataka.\(^6\)

Karnataka had a strong tradition of state led-industrialization and Bangalore owes much of its growth to the establishment of several public sector industries in the 1950s, which in turned spawned a thriving small-scale sector of ancillary units. This also gave rise to a large number of technical training institutes, which provided the technical work force, absorbed by a burgeoning industrial base. The economic development depends largely on the ‘quality, quantity, structure and the geographical distribution of the subsoil resource endowment in a country.\(^7\) The ‘Indian Bureau of Mines’ was established in 1948 and the Mines and Minerals (Regulation and Development) Act was promulgated because of federal financial integration. The state of Mysore, which had its own mineral policy, had to fall in line with the central legislation. The Industrial Policy Resolution of 1956\(^8\) and 1957 largely lays down the framework for the regulation and the development of all minerals other than petroleum and natural gas. The Mining Concession Rules, 1960 regulates the grant of

\(^5\) The Mysore Iron works did not take off due to the lack of coal in southern India were wood available in the large forest area of Shimoga could be converted into charcoal. The lack of infrastructural facilities in the area and financial point of view were the project was to be completed in 1919 but was extended to 1923 during which the prices of iron had gone down to less than half of what they were when the scheme was sanctioned. See Bjorn, Hettn (1978): *The Political Economy of Indirect Rule Mysore 1881-1947*, Ambika publications, New Delhi, pp. 269-274.


\(^8\) The Industrial policy of 1956 adopts a socialist pattern of society as the national objective as well as the need for planned development required that all industries of basic and strategic importance should be in the hands of public sector. It classified industries into three categories: Schedule “A” comprised of seventeen industries, Schedule “B” comprised twelve industries in the state would generally set up new enterprises while the private sector would be expected only to supplement the efforts of the state, Schedule “C” comprised of all the remaining industries. See Sudhir, Naib (2004): *Disinvestments in India: Policies, Procedures, Practices*, Sage publications, New Delhi, pp. 54-55.
prospecting licenses and mining leases of all minerals other than atomic and minor minerals.

In Karnataka, the well-known high-grade iron ore deposits are in Kudremukh-Bababudan belts of Chikmagalur district represent magnetite types of ores whereas a Sandur-Chikkanyakanahalli in Bellary District belt represents hematite type of ores.\(^9\) The driving forces of industrialization led to looking out for new avenues to make profit, raise revenue with minerals, and increase the phase of development.\(^{10}\)

**Kudremukh Iron Ore Company Limited**

The Kudremukh iron ore deposit is located in the Kudremukh-Aroli Gangamoola range of the Western Ghats of Chikmagalur district is a 100% Export Oriented Public sector Unit undertaken by Government of India under the Ministry of Steel and Mines. It is engaged in production and export of iron ore concentrate and pellets.\(^{11}\)

Late P. Sampat Iyengar of the Mysore Geological Department first discovered the deposit in 1913\(^{12}\) but the National Mineral Development Corporation (NMDC) carried out detailed exploration in 1965, and after three years of investigation at a cost of over Rs 50 lakhs, proved that deposits were extensive. It secured a lease area of 5,218 hectares of land in the Bhadra reserve forest on lease from the Government of Karnataka for a period of 30 years from 25-7-1969. The lease area of 5,218 hectares also included 310 hectares of land in Nellibeedu and that original lease contemplated acquisition of additional area of 1174 hectares at a later stage in Gangadikal. However, on 6-10-1972 the NMDC surrendered 613 hectares of land to the

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\(^{10}\) The imbalance of power constrained large projects in the northern districts of Karnataka and the focus was on irrigation projects like the Ghataprabha project on the Malabrabha and Upper Krishna projects by 1963. The major public sector industries as BEL, HMT, ITI, and HAL were located in Bangalore, which was the administrative, headquarter of the state of Mysore (although the city of Mysore was the capital). See Narendar, Pani (1988): “Political Economy of Karnataka 1950-1955: An Overview”, *Journal of Social and Economic Development*, Vol.1, No.1, January- June, p-72.


\(^{12}\) The Mysore Geological Department started in 1894 when even many advanced countries of the West had no Geological Surveys of their own.
Government of Karnataka on condition that additional lands leased out in due course for prospecting mining in Nellibeedu and Gangadikal. The consideration of the steep expenditure involved in setting up mining operations, and the consequent burden on ensuring profitability, the plan, took a slow phase during the early seventies.

The promotion of KIOCL in 1976 was through financial agreement between Government of Iran and India were the former extending credit of US $ 630 million and the latter for production and delivery of 150 MT iron ore concentrate to National Iranian Steel Company. The plant facilities and mine commissioned in 1980 and the first shipment of concentrate started from October 1981. This euphoria was jolted by the collapse of the Shah’s regime in 1979 which resulted in the flow of aid from Iran came to an abrupt halt. When the production of iron ore began in the 1980s, it had no buyers hence the production capacity brought down to 5 million tones per year. However, Rumania came forward to buy iron ore concentrate and agreed to set up a pelletisation plant at Mangalore with an annual capacity of 3 million tones of pellets. After 1986, the company was able to enter the markets of Japan and China and KIOCL made its highest profit of Rs 140 crore in the year 1991. KIOCL is India’s biggest Mining complex operated through opencast method and has the capacity to produce over 6.0 Million tones of iron ore concentrate and 3.5 million tones of high-grade pellets per year. The modern technology and sophisticated equipments from crushing to ship loading is completely automated and mechanized. Kudremukh Iron ore concentrate is highly regarded for their low alumina, sulphur and phosphorous content. The major justification for the company continuing its mining operations in the Kudremukh forests has been that it is the country’s largest export-oriented public sector enterprise with annual exchange earnings for the years 1996-99 average about 120 million. KIOCL has bagged a number of awards to its credit like Capexil awards,

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13 Booklet about Kudremukh Iron Ore Company Limited, Bangalore.

14 Open cast mines are harmful to environment because the impacts of opencast mines are more visible, but opencast operations can be considered more environments friendly and more sustainable than underground mining. Underground mines cause land subsidence, which can have a severe impact on water and gas pipelines, buildings and water-bearing strata.

Excellence in Indian Industries, Leading Exporters Award, and Best Tax Payer award. (See Appendix I.a, I.b, I.c for details).

The protest against Kudremukh gained momentum only from 1994 as its lease meant to expire in 1999 and the company was pushing for the extension of lease to continue mining. The mining and ecological distributional conflicts does not involve tribals, but the main actors in the conflicts are the grass root groups like Karnatak Vimochna Ranga (KVR), the NGO groups like Wild life First has opposed to the continuation of mining by the Company. In contrast to these groups, workers Union has demanded for the renewal of contract for the continuation of mining.

Grassroot Movements

The CPI (ML) groups has set up a number of mass organizations for democratic struggles relying on poor and landless peasants, middle peasants, urban intellectuals which work in tandem with underground organization such as Jana Natya Mandli of People’s War group and Jana Pratirodh Sangharsh Manch of the Maoist Communist Centre (MCC). Most of the Marxist-Leninist groups would subscribe to the need of armed struggle for revolution, but there are disagreements on the relation between

16 Protest is generally very specific in nature and centers on a particular issue and the condition of social unrest does not exist among individuals in a given objective situation. Protest, dissent and social reform represent a different phases of reform and are not mutually exclusive and one may find them in different permutations and combinations. However, initially there has to be a consciousness of some injustice, meted out to certain sections of society because of which they protest. Damle, Y.B (1988): Protest, Dissent and Social Reform: A Conceptual Note in Dissent Protest and Reform in Indian Civilization, (Ed) by S.C. Malik, Indian Institute of Advanced Study Shimla, pp. 28-34.

17 Most of our minerals are located in the tribal areas mainly of Jharkhand, Orissa, Andhra Pradesh and Chattisgarh. There have been conflicts between the miners and industrialists one side and the tribal communities and social activists on the other. For example Kashipur block which is a dense forest area inhabitant by majority of tribals, in Rayagada district (earlier part of undivided koraput district in Orissa state has been the scene of severe conflicts between the tribal communities on the one hand and Multi-national and large Indian corporations on the other. The issues of the tribals and minerals have also taken to the Supreme Court Judgment in the case of Samata Vs State of Andhra Pradesh in July 1997 held that land in the scheduled areas of Andhra Pradesh (including Government lands) cannot be transferred to non-tribals were absolutely void and impermissible. See Martinez, Alier (2005): The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation, Oxford University Press, New Delhi, p-XII.

mass work and armed struggle and mass work and electoral mobilization. The base for KVR formation in Karnataka on the revolutionary ideology, which is weak, and the class struggle based on the politics of new Democratic Revolution is yet to cast its influence in the masses. KVR believes that the oppressed masses of all nationalities of Karnataka to jointly fight against the common oppressors based on a ‘New Democratic’ programme it is possible to liberate Kannada nationality and all the national minorities from imperialist and feudal oppression. The Kannada national movement does not relate to the class demands of the peasantry and proletariat and it does not develop any perspective against the anti-feudal and anti-imperialist orientation. The Kannada National Movement under the influence of petty bourgeoisie makes it vulnerable to Kannada chauvinism and Fascism. The KVR affiliated to CPI (ML) based its campaigns or mobilizations are evident through their activities in the “Kudremukh Environment Movement 1994-2004. The protest against the KIOCL through Tunga Bhadra Ulisi Horata Okkoota (Save Tunga Bhadra Action Federation) and Kudremukh Rashtriya Virodhi Okkuta in reference to the Kudremukh National Park spear headed by Mr. Kalkulli Vittal Hedge and organizing broad base alliance against communal forces in Bababudangiri in Chikmagalur region (2003-2006). Earlier KVR organization took keen interest in organizing the suppressed peasants of the Raichur region against the property owners and their collaborators. The setbacks to the movement owing to the arrest of its cadres in the Kolar-Tumkur-Raichur region of the state in 1999 and 2000 led to shift in the base of KVR to Western Ghats and the focus against the Kudremukh movement.

The movement is concentrated in a zone within the heavily forested Western Ghats region that includes parts of the districts of Udupi, Shimoga, Dakshina Kannada and Chikmagalur. It is to this region that the State unit of the Communist Party of India (Marxist-Leninist) (People’s War) shifted its base in 2000-01 as part of a conscious policy to open another front of operations. The “perspective area” of the

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20 Vijay Poonacha, Thambanda (2004): Conflicting Identities in Karnataka: Separate State and Anti-Separate Movements in Coorg, Published by Kannada University, Hampi, pp.16-17.
People War's in Karnataka comprised eight taluks of Shimoga, Udupi, Chikmagalur and Dakishna Kannada districts. It decided to focus its activities here after studying the socio-economic conditions in more than 100 villages in the region. The social bases of these organizations have become unstable due to repression, surrenders and voluntary withdrawals.

KVR believes that the Karnataka government has been serving the interests of "feudalism and Imperialism" so it advocates that the labourers, peasants, middle classes and democrats should come out of the clutches of the "state government of Karnataka" and possess a different identity. The arguments against the KIOCL based from the historical and materialistic perspective and from the larger form of globalization through Tran's national companies and Multi national companies. The critique against development paradigm widens the horizons against foreign projects, river pollution, forest destruction and the socio-economic analysis, presented to the people.

The KVR campaign centered against mining operation at Gangadikallugudda to 'Save Tunga origin' in 1994, which gained momentum in places such as Sringeri, Koppa, Thirthahalli and Shimoga. The KVR activists undertook a cycle Jatha (procession) from Sringeri to Harihar covering 250 k.m to enlighten the people on the consequences of the mining operation. The campaign focused mainly on Tunga River during the extension of mining in 1994 and later in 1997 included Bhadra River and formed the Tunga-Bhadra Ulisi Okkuta. The grass root movements do not

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22 Kudremukha Ganigarike Pancghamahaa Sullugalu: A Collection of articles by Tunga-Bhadra joint struggle Forum (in Kannada), Published by Nama Nadu, Shimoga.

23 During the 1980's Jnanapeetha award winner, Dr. K. Shivaram Karanth's was involved in the Kaiga struggle in the Uttar Kannada district. Karanth's concern expressed in his both literary work "Mookajjiya Kanasugalu" (Dreams of Mookajji) deals with ecological issues and active support to the environment movement. He was also involved in the struggle against Karnataka Pulpwoods Limited (KPL) were he was the first petitioner in the Supreme Court. See Ramachandra, Guha and Juan Martinez-Ailer (1997): Varieties of Environmentalism, Earth scan, London, pp.3-21.

24 Interview with Sundar, a KVR activist on 28/10/2006, Shimoga.

exclusively deal with environment issues, but follow an integrated approach by linking poverty, social justice, inequality, rural development and health issues.

The disjuncture and the tactics of social movement in the context of hi-tech development of the Information technology (IT) have dramatically changed local social characteristics in a way that constrains grassroot mobilizations. The campaign against the company were taken up by various Non-Government Organizations²⁶, which have relied more on Public Interest Litigation as social movements and have actively used the courts – especially Supreme Court as part of their struggles.

The ‘Gangamoola’ is the birthplace of three rivers – Tunga, Bhadra and Nethravathi. The river Tunga, which originates in the midst of the forest, flows northwards and then turning to east joins river Bhadra at Kudali in Shimoga district far away from the mining site. The river Nethravathi first flows westwards turn to southwest, and join the Arabian Sea in an estuary at Mangalore. Only Bhadra River flows downwards towards Balehonnur via, Jamble, Nellibeedu and Kalasa.

The opposition against the company centered on river Bhadra that originates a little distance from the lakya dam, into which the KIOCL is allowing the waste iron slurry and silt has created pollution to Bhadra River. The River forms an important lifeline for the people of Karnataka and Andhra Pradesh, providing sustenance and livelihood to the millions of people living downstream.²⁷ With over 7000mm of annual rainfall that Kudremukh receives, open cast mining is an extremely dangerous operation here, and results in adverse impacts on a thickly forested and river area. The washing down of large amounts of silt during monsoons from the mines has resulted in high rates of siltation of feeder streams and to the Bhadra River. The allegations against the company were:


²⁷ Interview with Subhash Kharbare employee of KIOCL on 10/3/2006, Bangalore.
Pollution of Bhadra River

Map of the Bhadra River Flowing through the Kudremukh Iron Ore Company Limited

Source: Wildlife First, Bangalore
1) During 1991-94 the height of the Lakya dam\(^{28}\) was increased by 35 meters, which was done without obtaining permission from the Karnataka state forest department and in 1994 due to record rainfall of up to 1000mm the lakya dam breeched and the KIOCL township and the villages downstream up to bhadra reservoir were evacuated in response to this alarm.\(^{29}\) In 1994, Government of Karnataka accords sanction for issuing prospecting license\(^{30}\) over an area of 310 hectares of forestland at Nellibeedu within the Kudremukh National Park for a period of three years subject to certain conditions. Mr. Shekar Singh, Former planning commission advisor along with Ms. Malati Sen of the World Wild Fund for Nature and Mr. Chandi Prasad Bhat of the Chipko Andolan wrote to the then Union Minister of Environment Mr. Kamal Nath urging him to revoke the prospecting license granted to KIOCL. Under the liberalized policy, mining activity with respect to as many as 13 minerals earlier reserved for the public sector, open to the private sector for exploitation. These were iron ore, manganese ore, sulphur, chrome, gold, diamond, copper, lead, zinc, molybdenum, tungsten, nickel and platinum. Around 15 minerals removed from Part C of the First Schedule of the MMRD Act, leaving only 11 minerals, for which the permission of the Central government for the grant or renewal of mining lease (ML) and prospecting license (PL). The KIOCL violated the prospecting license stipulates by constructing roads over 19kms length and 6 meters width inside the national park on very steep slopes.

2) In February 2000, lakya reservoir consists of two distinct parts- the foreground being the dumping place for mine tailing and the rear portion being the water storage part. As the tailings pile up, it spreads towards foreshore and to arrest this, a bund is necessary, which could be building using mine, waste. The Company working under temporary work permit, which stipulates that no areas shall be broken

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\(^{28}\) The project generates very large quantity of slime for which a dam has been built at Lakya to store the fine tailings left after the separating the concentrates.


\(^{30}\) Prospecting license (PL) granted for undertaking operations for purpose of exploring, locating or providing mineral deposit. The other kinds of mineral concessions are recognized in Indian Law are Reconnaissance Permit (RP) is granted for preliminary prospecting of a mineral through regional, aerial, geographical or geochemical surveys and geological mapping. See Vagholikar, Neeraj, Kaustubb A.Moghe and Ritwick Dutta (2003): Undermining India: Impacts of Mining on Ecologically Sensitive Areas, Kalpavriksh, Pune, p-7.
the company broke up an adjoining hillock for a borrow pit and used the earth for the construction of bund in March 2001.\textsuperscript{31}

3) The company was operating outside the lease area. On a detailed field inspection, it was found that the company extended the mine freely all around and even inside the mine is previously unbroken areas. The multiple violations of the company noticed by the forest department, but since the permission for the government gives local officers mining officers have no advantage against such violations, which is going for a long time.\textsuperscript{32}

4) While the mining lease expired on 24\textsuperscript{th} July 1999 the management of the company appointed National Environment Engineering Research Institute – Nagpur to prepare a “Comprehensive Environment Impact Assessment” (CEIA) report and submitted its report within a year’s time. The Environment Impact Assessment (EIA) and the Environment Management Plan (EMP) instituted by the National Engineering Research Institute (NEERI) Nagpur, has given a ‘clean chit’ to KIOCL for extension of lease in the broken up area for another 20 years. Another report submitted to the company on the flora and fauna impact study done by the Centre for Ecological Studies, Indian Institute of Science concluded that the overall impacts of the mining and associated activities on the ecology has a direct effect on the loss of habitat and fragmentation of an important tract of tropical rainforest in the Western Ghats.

The various studies conducted on behalf of the company also led NGOs like Ashoka Trust for Research in Ecology and the environment carried out a scientific study on the impact of mining.\textsuperscript{33} It asserted that the topography and rainfall characteristics, in combination with the opencast mining, road building and other land-surface disturbances caused by KIOCL operations, are likely to lead to high sediment discharges in the Bhadra river system in the short and long term. The study asserted to the poor attention given to water quality and the omission of wet-season sampling of streams. Environmentalists say that KIOCL’s measures to check pollution

\textsuperscript{31} Report on the Forest and Mining Violations by the Kudremukh Iron Ore Company Limited, by the Deputy Conservator of Forests, Kudremukh Wild Life Division, pp. 3-4

\textsuperscript{32} Ibid., pp.6-8.

\textsuperscript{33} A Bangalore based NGO headed by Jagadish Krishnaswamy.
have had very little impact. The main thrust of the Company’s plea relating to environmental issues, stressed that mining is eco-friendly as would be evident from the various activities undertaken by it and vast sums of money spent on the preservation of nature and environment in addition to prevent pollution.

Though the mining lease ended, the Central Government extended it initially for one year by giving a temporary working permission under section 2 of the Forest Conservation Act and later by one more year. The various groups and individual persons like K.R. Sethna, (formerly member of the Indian Board for Wildlife and honorable Warden of Chikmagalur) D.V. Girish (Secretary Nature Conservation Guild, Chikmagalur) Save Western Ghats Movement represented by the Chikmagalur District Co-coordinator Gajendra Gorasakadige, Nellibeedu Samrakashana Samithi, and Environment Support Group’s coordinator Leo F. Saldanha filed a petition in the Karnataka High Court. The State High Court of Karnataka disposed Writ Petition NO. 38716/1999 stating the Supreme Court direction in the I.A. No. 207-210/97 that “in view of the fact that in matters pending in this court and throughout the country, it is appropriate that no aspect of this matter be considered separately by another court in any form”, therefore disposed the matter giving liberty to the parties to approach the Supreme Court.

In the last two decades particularly the judiciary has taken upon itself, a more activist role in cases of environmental degradation filed before the court was against the state. The issue of environmental pollution caused by industrial units due to failures of the state in protecting the rights of life and liberty as guaranteed under Article 21 of the Constitution. These provisions used by the Supreme Court in dealing


35 The KIOCL Company in their eagerness to raise forests as speedily as possible, the forest department planted 80 lakhs of acacia (Acadia Auriculoformics), Eucalyptus and Casunna everywhere in plenty in the 1970s and 1980s. It would have been understandable if these exotic species were planted only on barren lands and bald hills where nothing else grows, but there was no justification in planting them even in Malnad and west coast where the indigenous species of this tress could be grown easily.

36 In April in 2001 a slide show was organized by D.V. Girish of Nature Conservation Guild, Chikmagalur and Niren Jain of Kudremukh Wildlife foundation and WILDCAT- Chikmagalur regarding the ill-effects of mining in kudremukh to several cabinet Ministers Mr. D.B. Chandre Gowda, Minister of Law and Parliamentary Affairs, Mr. sager Ahmed, Minister of transport and other politicians.
with environment cases, and considering environmental, ecological, air, water pollution as amounting to the violation of Article 21.\textsuperscript{37}

**Judicial Activism through Public Interest Litigation**

The PIL based judicial activism has transformed from an passive arbiter of ordinary disputes and giving relief to the disadvantaged groups\textsuperscript{38} under the leadership of Justice V.R. Krishna Iyer and P.N.Bhagwati were the Supreme Court gained in stature and legitimacy covering a wide spectrum such as road safety, pollution, illegal structures etc. In 1981 a PIL was filed to protect the rights of pavement dwellers in Bombay and the Court gave a historic judgment that held that the Right to Life included the Right to Livelihood, and hence, the pavement dwellers were arbitrarily evicted, as their livelihood was dependent on where they lived. However, in 1985, one of the first environmental cases filed as a PIL to stop limestone quarrying in Dehradun. This drastically changed the nature of jurisprudence, because the Court held that the Right to Clean Environment took priority over the Right to Livelihood. Thus, the interests of the mineworkers sacrificed in order to protect the Mussoorie hills from degradation. Such a judgment completed the transition in PIL from the rights of weaker sections of society to the right to enjoy clean environment. The decision emphasized that people should be able to live in a healthy environment, but said nothing about the right to work in such an environment. Thus, it created an artificial divide between employment and environment. The court emerged as redresser of grievances and in the eyes of the public as an agent of social change. In India were courts have been used to direct the government to enforce laws the environmentalist in Europe took the route of electoral politics to bring about changes in the social and economic order that will be conducive to healthy living from the polluting industries.


\textsuperscript{38} Shoba, Agarwal and Dunu Roy (2000): *Our Land, our Minerals, Our Rights*, Report of the 1\textsuperscript{st} Convention, Mines, Minerals and People (Mm&P), 28\textsuperscript{th} April to 1\textsuperscript{st} May, Hyderabad, India
As the court seeks advice from experts, those involved in the movement for environmental protection also began to seek their support. The debate of accountability between the legislature and the executive as they are accountable to the people by way of elections, but the role of judiciary as a distinct role criticized for encroaching upon the domains of other organs. Justice Krishna Iyer said long back in 1982, "Independence of the Judiciary is a myth. It overlooks numerous tie-ups with the executive and business houses".\(^{39}\)

The environmental protection act is an umbrella legislation, empowered the Government of India to take all such measures it deems necessary for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.\(^{40}\)

The Supreme Court by its order dated 9-5-2002 in writ petitions has constituted the Central Empowered as an advisory for the Honourable Court orders and to place the non-compliance cases before it, including in respect of encroachments removals, implementations of working plans, compensatory afforestation, plantations and other conservation issues. The Empowered Committee consists of five members and their main task is to monitor and ensure the compliance of the orders of the Supreme Court. The members are:

1) Shri P.V. Jaykrishnan, (Chairperson), Former Secretary, Ministry of Environment and Forest.
2) Shri. N.K. Joshi, (Member) Director of General of Forests, MoEF (Member representative of MoEF)
3) Shri Valmik Thapar, (Member) Ranthanbore Foundation, Member (NGO),
4) Shri Mahendra Vyas, (Member) Advocate Supreme Court of India.
5) Shri M.K. Jiwrajka Inspector General of Forests, MoEF shall be the member secretary of the Committee.

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\(^{40}\) Kuldeep, Mathur (2004): “Battling for Clean Environment: Supreme Court, Technocrats and Populist politics in Delhi”, *Centre for the study for Law and Governance*, Jawaharlal Nehru University, Working paper series, p-8.
The CEC may decide its own procedure for dealing with the pending affidavits filed by the states in response to the orders made by the court by the committee and their recommendations placed before the honorable Supreme Court for order. The process prescribed under this notification could bring together local communities, project affected people, government agencies, project proponents, planners, consultants, and NGOs in decision-making processes. The convergence of these actors for environmentally sustainable and locally appropriated decision-making has occurred partially in few cases.

The Supreme Court heard the Kudremukh mining case on an interlocutory application (I.A 670) filed by Bangalore based NGO Wild life first by K.M. Chinappa in association with Delhi based NGO, LAW-E. The case filed in the Supreme Court seeking a direction for closing Kudremukh Iron Ore Company on environmental grounds, filed by the Amicus Curiae in the Godavaram case in which the workers were not made parties.

The workers union led by Kudremukh Shram Shakti Sanghatan filed an application immediately after I.A.670/2001 for seeking opportunity of hearing in the I.A No.682/2001, as workers will adversely affected if closure of mines. The recommendations done by CEC based on a documentary film named "Mindless Mining" made by filmmaker Shekar Dattatri. He is a renowned wildlife filmmaker.

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41 Senior Advocates of the Supreme Court have assisted by Amicus Curiae or ‘friend of the court’ in any particular litigation on the request of the court. For example cases relating to bonded labour, forests, and public accountability. See Ashok H.Desai and S. Muralidhar (2000): “Public Interest Litigation: Potential and Problems”, in Supreme But not Infallible: Essays in Honour of the Supreme Court of India, (Ed) B.N.Kripal, Ashok.H.Desai, Gopal Subramanium, Rajeev Dhavan, Raju Ramachandran, Oxford University Press, p-167.

42 Wildlife first is a conservation advocacy organization that has been focusing its efforts for over a debacle in the state of Karnataka with K.M.Chinappa as its head who was the retired Forest Officer, Ullas Karanth of the Wildlife Conservation Society (WCS) serves as the scientific Advisor and Praveen Bhargav and D.V. Girish as it trustees. They argued that Kudremukh mine is located at Western Ghats, one of the Bio-Diversity Hot spots and hence mining should not be permitted.

43 The Supreme court fearing the scale of encroachment passed an interim order dated December 19, 1996 on a writ petition (No.202 of 1995 in T.N. Godavarman Thirumulpad Vs Union of India and others held that non-forestry activities in forest areas constitutes prima facie a violation of the Forest Conservation Act (FCA) 1980 and directed that every state government ensure the cessation of all such activities. See Ravi, Sharma (2003): “Eating up forest land”, March 28, Vol.20, No.6, Frontline, pp.50-54.

volunteered to help Kudremukh Wildlife Foundation to produce a 12-minute video documentary called "Mindless Mining", the tragedy of Kudremukh. This proved to be a powerful tool to support the campaign to stop mining at Kudremukh. The film has been submitted as an audio visual evidence in the ingoing court case in the Supreme Court of India to stop the mining inside the national park filed by wildlife first (partner organization). The film claimed at creating awareness aiming the farmers using the Bhadra Reservoir command Area (located downstream of mining) who will be losing irrigation potential due to heavy siltation in the reservoir from the mining site at Kudremukh. The documentary was used by Mr. Valmik Thapar, according to him all mining operation should stop immediately and "Restoration and Winding up" has to start so that the company can restore all mined lands, plants, indigenous species and protect the region from further degradation. The exploitation of the Kudremukh iron ore follows no principles in law, the valuable rainforest has a greater value to human life than iron ore. The Kudremukh Shram Shakti Sanghatan filed Application NO.1374/2005 for reconsideration of the judgement stating that it was made in violation of principles of natural justice and prayed that the same to be heard with 1010/2003 filed by KIOCL as the subject matter of both the applications were substantially similar.

According to the former Chief Justice of the Punjab and Haryana High Court, M. Rama Jois, who appeared for the KSSS against the closure, the Supreme Court's order had two serious defects. The court did not give an opportunity to the workers in the case. The judgment based on the recommendations of the Central Empowerment Committee, as one of its member Mahendra Vyas was also the advocate for the petitioner Wildlife First. No one judged established jurisprudence in his own cause.


46 The concept of natural justice has undergone a great deal of change in recent years. In the past it was thought that no one shall be a judge in his own cause and no decision shall be given against a party without affording him a reasonable hearing has changed with quasi-judicial enquires must be held in good faith, without bias and not arbitrarily or unreasonably.

47 On 19-11-2003 the Kudremukh Iron Ore Company filed application No. 1010/2003 praying the court to appoint an independent committee to examine the matter on the ground that an interested person was a member of the CEC and also with a prayer to allow the KIOCL to continue the mining for 20 years producing evidence in abundance in support of it.
The order of the CEC biased as the two members being close associate have influenced the judgment in protecting the depleted wildlife habitats and water resources of the country. The campaign led by wildlife first hailed the judgment as a landmark case to safeguard the Kudremukh National Park from mining in its new letter dated on 22nd October 2002 but the judgment was given on 30th October 2002. The environmental issues, relating to pollution are extremely scientific in nature. In the U.S environmental groups have relied to a greater degree of litigation, skillful use of the media and lobbying politicians with a greater chance of success in a formal and mature democratic political system. In India, the courts acts as a supplement to popular protest. The courts have to decide on technical issues choosing amongst the different scientific options available to deal with the problem and social implications of the various options available. In U.S.A, the concern over this problem led to the Carnegie Commission of Science and Technology (1993) and the government to study the problems of science and technology in judicial decision-making, submitted its report, and concluded:

"The courts inability to handle complex science-rich cases has recently been called into question, with the widespread allegation that the judicial system is increasingly unable to manage and adjudicate on science and technology issues. Critics have objected that judges cannot make appropriate decisions because they lack technical training, that the jurors do not comprehend the complexity of the evidence they are supposed to analyze and that the expert witness on whom the system relies are mercenaries whose biased testimony frequently produce erroneous and inconsistent determinations. If these claims go unanswered, or are not dealt with confidence in the judiciary will be undermined as the public becomes convinced that the courts as now constituted are incapable of correctly resolving some of the pressing legal problems of our day"  

The Judiciary has become the most powerful institution of the state because it enjoys enormous power and the arbiter of disputes between citizens and the state, and

between states and the union, and directs the government in closing down industries, commercial establishments etc. The trade unions have opposed the closing down of the company and organized nation wide strikes, bandhs, rallies in different parts of the country, but these had any effect in changing the policies. It is therefore evident that the traditional forms of protest have lost its strength concerning labour. The Supreme Court has emphasized the need to set up Special courts were cases involving environmental pollution, ecological destruction and conflicts over natural resources with one professional judge and two experts drawn from Ecological Sciences Research Group keeping in view of the nature of the case and the expertise required for its adjudication.

The inconsistency in the stand of the state and central government because at one time they agreed to renew the contract period for 20 years and subsequently turned around to five years period. Several prominent public personalities and religious seers of Pejawar, Sringeri, Dharamstala, Adichunchungiri, Siddaganga and Sirigere Maths, writers K.P. Purnachandra Tejasvi, U.R. Anantha Murthy and social worker H. Sudershan played a key role in persuading the Government of

50 The judicial orders of the Supreme Court resulted in the closure of polluting and non-conforming industries in Delhi the capital city, throwing out of work an estimated 2 million people in a population of 12 million people through public interest litigation by bourgeoisie environmentalism. See Amita Baviskar, (2003): “Between violence and desire: space, power and identity in the making of metropolitan Delhi”, No. 175, International Social Science Journal, pp. 89-98.

51 The first manifestation of discontent among the workers in Mysore manifested only in 1920 and even this late awakening did not take any organized form. The great depression in the 1930s labour saw labour force becoming more and more organized, but the ruthlessness of the government also was on the increase. Although Trade union Act passed in 1926 the Mysore Government saw no reason to extent it and as a result, the trade unions had to register themselves as charitable institutions up to 1942. The union movement in KIOCL however never met with great difficulties because the State was the principal industrial entrepreneur, the employer interests therefore Jargely became identical with the state interest, and as a result, union activities looked upon as anti-state activities. See Chandrashekar, S (1985): Dimensions of Socio-Political change in Mysore 1918-40, Ashish Publishing House, New Delhi, p-116-17. Also See Rakhahari, Chatterji (1980): Unions, Politics and The State: A Study of Labour Politics, South Asian Publishers, New Delhi, pp. 43-52.

52 In Karnataka, the influence of religious Mutts as people as powerful bodies, which not only control funds but also influence public opinions and intervene for the purpose of patronage distribution. See Atul, Kohli (1987): “Karnataka: Populism, Patronage and piecemeal reform” in The state and Poverty in India, 145-85, Cambridge, Cambridge University Press, p-152.

53 U.R. Ananthmurthy is the most influential representative of the 'navya' (modernist) movement in Kannada literature. He joined hands with "Tungamula Ulisi", a movement to protect the source of the River Tunga with K.G. Sridhar who led the movement in thirathhalli of Shimoga District.
Karnataka to stop the mining.\textsuperscript{54} The delegation led by U.R. Ananthmurthy\textsuperscript{55} submitted a Memorandum to the then Chief minister Mr. S.M. Krishna and pleaded not to renew the mining lease and ordered the Kudremukh Company to "pack off" as company had done enough.\textsuperscript{56} A "Shimoga bandh"\textsuperscript{57} observed on 24-7-2001 demanding immediate stoppage of KIOCL. The main reason for bandh was on the speculations based on WTO agreements, multinational companies could purchase the shares of KIOCL, and then people will lose the right to question the activities the KIOCL. It has violated the laws and regulations governing the country over the past 35 years and urged Deputy Commissioner urging not to allow mining activities in the Kudremukh hills under any circumstances and to make immediate arrangements for relocating the displaced workers.\textsuperscript{58}

\textbf{Response of Trade Unions against the Closure of Kudremukh Iron Ore Company}

The individual unrest, frustration or discontent represents a fluid condition, which has the potentialities for differing lines of action. Therefore, every social structure creates its own types of protests and the styles of expressing protests.\textsuperscript{59} The analysis of protest politics show that many of these forms of activity assumes many forms like legal and illegal forms of protest and among the legal forms are processions, public meetings, \textit{hartal} or \textit{bundh} (shut-down strike), \textit{rasta rako} (road blockade) strikes and

\textsuperscript{54} Praveen, Bhargav and Niren Jain (2004): "Battle for Kudremukh ": \textit{The Hindu} January 4th.

\textsuperscript{55} The delegation included the leader of the opposition of the legislative council, Mr. K.H. Srinivasa, Mr. B.L. Shankar, Mr. K.B. Mallikarjun, Mr.A.Jnajendra and Mr. Visvesvara Hedge. The former State Government official, Mr. Yellappa Reddy, and the noted environmentalist, Mr. Ullas Karanth was also part of the delegation. \textit{The Hindu}, July 19, 2001.


\textsuperscript{57} A \textit{bandh} is a common form of collective protest, sometimes spontaneous but more often enforced by a political party or neighborhood association. A bandh may be also be a mark of respect for the death of a public figure) or a precaution (in the case of anticipated violence such as riots).

\textsuperscript{58} \textit{The Hindu} Thursday July 11, 2002.

fasts. The Central Trade Unions that are recognized by the Company are Kudremukh Employees Union affiliated to (INTUC), Kudremukh Shramashakti Sangathane Affiliated to (HMS), Kudremukh Mazdoor Sangh affiliated to (BMS).

**Kudremukh Mazdoor Sangh**

The Kudremukh Mazdoor Sangh protested on behalf of the 2500 direct employees of KIOCL and their family members around 10,000 people who are indirectly dependent on KIOCL will become unemployed, has effects on families by the closure of mining activities. Those who have joined KIOCL recently have to suffer a lot, as they have to struggle to get employment elsewhere. Most of the employees have reached half way mark in their service and they may find it very difficult to get employment elsewhere. The employees of Kudremukh belong to the age group of 40-45 years, which means they are neither young nor old; hence, their condition is precarious. There is no recruitment in the company as per Government directive and under a scheme of Voluntary Retirement Scheme, which was in force up to 30.6.2000; around seventy-four employees belonging to various categories including officers have retired. Around 800 members have taken VRS and the maximum amount received by an individual around 6½ Lakhs for executives and around 11 lakhs for Non-executives. Most of the children of employees are studying in various classes at Kudremukh and they have to get new admission on their respective class and respective places.

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61 Indian National Trade Union Congress (INTUC) All India Trade Union Congress (AITUC) Centre of Indian Trade Unions (CITU) Hind Mazdoor Sabha (HMS) Bharatiya Mazdoor Sangh (BMS) United Trade Union Congress (UTUC) National organization of labour (NLO) National Federation of Indian Trade Unions (NFITU) United Trade Union Center (LS)


63 Interview with Anwar pasha Kudremukh Employees Union affiliated to Indian National Trade Union Congress (INTUC) 29/1/2007, Mangalore.

64 Valmik, Thapar (2002): *Horrors of kudremukh* a photographic report on mining in Kudremukh National park from 30th September to 1st October.
The KMS has argued that closure of mining activity at Kudremukh will create a severe hardship to employees and indirectly a set back to our economic development. It is only one public sector in Chikmagalur district, set up by the central government and if KIOCL is closed the people around this region will be affected more and there in economic development of this region.\(^{65}\) It also criticized VRS are part of privatization which appears attractive to workers who are facing insecurity in their jobs. However, the euphoria of the large sum of money wears off when is eroded by paying off debt, marrying children, the costs of inflation and price rises in food transport and basic daily essentials. With competition from multinational corporations who have cut rate prices, many workers' dreams of starting a business and being self-sufficient.\(^{66}\)

KMS organized a huge protest in Managlore in collaboration with Sri Jayakrishna Parisara Premi to draw the attention of the state, and also protested in Bangalore in collaboration with the Rakshana Vedike under the leadership of Narayana Gowda.\(^{67}\)

**Kudremukh Employees Union**

The Kudremukh Employees Union affiliated to Indian National Trade Union Congress (INTUC) led a team of INTUC members along with their families visited New Delhi to meet Congress Ministers and submitted a memorandum to them. The KEU took a procession in New Delhi to highlight the issue and one of the banners had a message: *We have come to Delhi seeking justice against the closure of KIOCL by NGOs.* The Kudremukh Employees unions meet senior Congress leaders like Mrs

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\(^{65}\) The BMS has totally criticized the political leaders for not taking interest in decision making for the continuation of mining. BMS has gone door to door of the ministers of Karnataka and central government and criticized the environmentalist like Jnanapeeth Winner U.R. Ananthamurthy, Vittal Hedge, and Ullas Karanth are wearing a mask but in reality have come in the extension of the contract due to money. Interview with Kulkarni, member of BMS, on 26/9/07, Kudremukh.


\(^{67}\) The assertion of “kannadiga” by the Karnataka Rakshana Vedike laying emphasis on the fact that the development of people is directly linked to the development of is language. The recent “Cauvery agitation” has a seen potent force which believed in violent methods of protest.
Margret Alva, Mr. Oscar Fernandes, Janardhana Poojary, Dayanidini Maran, Ramvilas Paswan and finally Mrs. Sonia Gandhi and expressed fear that the closing of the mining will lead to the naxalite menace. The company, has not taken care of the workers, and has led to the socially unstable in the area. The mining activities is safe and devoid of pollution because the process is very mechanical and electrical were the movement of the slurry to the harbour is through gravitational flow. 68

More than 1,000 employees belonging to the three unions blocked the Mangalore-Mumbai highway with Rasta rako (road blockade) and raised slogans against 'environmentalists' for more than 10 minutes as a mark of protest against the closure of mining operations. The workers union also burnt the effigies of Jnanpeeth awardee Dr. U.R. Ananthamurthy, Environmentalist Ullas Karanth, Praveen Bhargav, Niren Jain and Save Tungabhadra leader Kalkulli Vittal hedge. A memorandum submitted to the government through MLA J. Krishna Palemar who expressed sympathy with the workers and blamed the inefficiency of the state and central Governments for the closure of KIOCL. "Had the KIOCL been a private firm, it would not have been closed" and demanded a high-level enquiry against environmentalists who have received foreign funds to force the closure of KIOCL. 69

The trade union response in which unions organize rank-and-file members, putting power behind their demands was missing and daily wage workers was left from the purview of the workers unions and there was no rehabilitation process offered to them. 70

**Daily wage workers in Kudremukh**

The workers unions divided between the employed and the unemployed, between regulars and the temporaries, between employees and contract labour. Added to this within the enterprise the decision making one set of workers control another set of


69 The *Deccan Herald*, January 3, 2006, Bangalore.

workers which makes the capital-labour conflict pass into inter-worker conflict and the natural injection of sectionalism injected by the capitalist logic of competition among the working class movement. The unemployed are defined as non-workers, and organizing of casual workers takes the second place within the union structure. The Management with its bureaucratic centralization has manipulated regular unions and the issue of daily workers has organized themselves to fight for rehabilitation from both the Management and the state Government. The major problems by closing KIOK, by the Kudremukh Daily Wage workers union who are working as contract labour for the last three decades.

The Management used to control the Daily wage workers through the contractors for different works in the company like welding, fitting, cleaning, greasing, civil works, cable handling, masonry work, sweeping, serving in canteen, maintenance of garden are some of the works done by daily wage contract workers. The contractors had a good understanding with the management and the daily wageworkers paid around Rs 71 per day. On paper, they showed more but in reality the manipulations were so much and if anybody resorts to organize the workers or raise their voice, their entry pass was not renewed.

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72 The AITUC affiliated to Communist Party of India started to mobilize the contract workers during the period 1982-83 but the company has not recognized.

73 Letter written to Shri Manmohan Singh by Kudremukh Daily Wage Workers Union, on February 9th 2006.

74 The pay scale of the regular workers followed the rules of the central government were as the contract workers the rules of the state government rules and the differentiation between them in salary, living conditions also made a huge difference by the claims made by the company were in total contrast with the situation of the contract workers.
The strength of the daily wageworkers in Kudremukh as on 23.02.2007

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Village</th>
<th>Total Number of families</th>
<th>Total population</th>
<th>Daily Wage workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Vinobhanagar</td>
<td>329</td>
<td>1,144</td>
<td>345</td>
</tr>
<tr>
<td>2</td>
<td>Jamble</td>
<td>62</td>
<td>196</td>
<td>61</td>
</tr>
<tr>
<td>3</td>
<td>Nallibeedu</td>
<td>104</td>
<td>413</td>
<td>122</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>495</td>
<td>1753</td>
<td>528</td>
</tr>
</tbody>
</table>

Source: Kudremukh Daily wage workers

The industrial conflicts between the management and daily wage workers to file a case in the Central Government Industrial Tribunal-Cum-Labour Court at Bangalore against the managing partner M/s Allied construction company for not paying Bonus for the financial year 2002-2003.

Political leaders have visited kudremukh and have doled out liberal assurances and nothing has come to the relief of destitute families of Daily wageworkers. They took a jatha from kudremukh to chikmagalur covering a distance of 110 K.M. by foot. The Daily wageworkers have urged upon the state government to intervene, protect their interests, and ensure a decent living for them. The problem of daily labours is a dynamic and complex problem and therefore nobody has headed the concerns by the registered union or NGOs, which seldom support the strikes and protests against low wages, and their existence, which are deep rooted in poverty. The issue was also linked with the local people were nearby villages of Jamble, Neelibedu, and Samse are dependent on the company for their livelihood either as permanent employees of

76 Interview with Periyaswamy, Secretary of the kudremukh daily wageworkers union, on 25/9/07, Kudremukh.
77 The rehabilitation of 63 families who gave up their lands to the company has been rehabilitated in Jamble, Nellibeedu and Samse villages and given alternative land of 2 ½ acres of alternative land and one person in each such family has been given a suitable job in the company. The company has constructed a 5 bedded and well-equipped hospital for its employees and primary Health facilities at Nellibeedu and Vinoba Nagar. More than 3,000 children from Malleswara and nearby villages receive quality education in the Kendriya Vidyalaya, Junior collage and primary schools run with the assistance of the company.
the company or as contract labourers who had their own grievances against the company regarding employment opportunities for their families or relatives. The Company closed due to the total collapse of administration of the company, rather than mining, which is very systematic with no pollution.78

Alternative Site for Mining

The three unions setting aside their union affiliation argued that NGOs like wildlife first are not doing this simply out of love for ‘lion-tailed Macaques’ or ‘Niligiri Marteus’ or out of sympathy for the ‘peasants’ dependent on Bhadra reservoir. The River Bhadra is also polluted due to the various industries in Bhadravathi town or the Birla owned Poly fiber factory in Kumarapatnam near Harihar is poisoning the entire Tungabhadra river were N.G.Os are silent about the atrocities being perpetrated by the private sector industries on nature and environment. The subtle but systematic campaign of distrust against all state institutions, committees, and state owned industries and instigating the people indirectly to give up faith in all organs of state apparatus.79

They urged the state Government to allot block numbers 13, 14, 15, and 17; of Ramanadurga in Bellary district for mining to the KIOCL as alternative but the private parties has already taken away a lion’s share of Ramanadurga mining block. The boom in the iron ore prices has created a demand involving government departments and intermediaries to extract ore from the finest deposits at Sandur, Hospet and Bellary district of around 2.5 billion tonnes in Karnataka.80 In the year 1964, the Karnataka Government through a Gazette Notification reserved the Ramanadurg area for mining by the state and/ or by the Public sector units. The Mineral Concession rules 1960 provide that the state Government with the consent of

78 Interview with Ramesh, a Taxi driver in Jamble, on 27/9/07, kudremukh.
80 See Minevis (2007): “A news Letter of the Envis, Centre on environmental problems of Mining Areas”, No.52, Centre of Mining Environment, Indian School of Mines, Dhanbad.
the central government may permit private companies to mine in such reserved area. In pursuance this relaxation, the Karnataka government in the past has allowed some of the private parties to mine in some of Ramanadurg area. The boom began when the centre opened the country’s iron ore reserve to private enterprise in 1999.

In July 2005, the district administration recorded the movement over 5,000 trucks on a single day through Bellary city to Mangalore Port. The district administration has now set up a task force to conduct random checks of transport permits. A virtual parallel administration with elaborate machinery to counterfeit permits and authorizations has come up to enable the illegal mining. This parallel administration has to be broken and the credibility of the district administration restored, or else it will have a large impact as compared to the Dhanbad coal mafia in Jharkhand. The illegal mine operators generate enormous wealth for themselves and for the officials, bribed along. Consequently, illegal mines came up all over the district through the active support of local politicians. The illegal mining in iron-ore rich Bellary has deprived the state administration of enormous revenue – Rs.3000 crore in two years, according to the government’s estimates.81

Dilemmas of the State Government

The Central and State governments have gone out of their way to bail out KIOCL, and in the process ignored the law of the land. The Karnataka Government predicament stems from the fact that it cannot be instrumental in the closure of profit making company, with nearly annual earnings of $150 million foreign exchange. The company is boosting states revenue by payment of royalty, sales tax and entry tax to the tune of Rs 2.5 crores annually82 (See Appendix I.d and I.e). The decision on the

81 The coalition government between BJP-JD(S) came to power owing to the mines lobby were it failed to protect thousand of labourers who were depending on KIOCL by not allowing mining in the region but has given permission for illegal mining in Bellary district. See The Deccan Herald, Mangalore, September 24th, 2007.

82 The Mangalore port receives Rs 3 crores annually by way of port charges and another Rs 2.5 crores as land rent charges as the ore and pellets are exported to China, Iran, Australia, Turkey and Japan and the company signed fresh contracts in 2000-01. The company has so exported 210 million tonnes of ore concentrate and its mining zone has a stockpile of weathered ore of about 140 million tonnes and beneath it another 350 million tonnes of primary ore, enabling operations for another 20 years.
renewal was still pending; the MoEF promptly went ahead, issued a year's Temporary Working Permission (TWP) to KIOCL in 1999, and extended by another year, because of the Karnataka Government's submission that the area concerned would not form a part of the area notified as a national park. The TWP was conditional, with one of the conditions being the State government's final notification on the constitution of the KNP by September 30, 2000.

The serious criticism against Public sector companies in the area of public relations, because at a time when torrent of false propaganda let loose against the company, it did not defend itself by placing facts before the people, which was a serious lapse on the part of the KIOCL Company. The campaign led by big coffee planters against the company because of shortage of labourers in coffee estates. The villagers who are working in the company if closed would become destitute and be compelled to work in the near by coffee estates. The workers union gave the details to Democratic Youth Federation of India (DYFI) a wing of parliamentary left due to the constrains of the public sector to come out openly and in the name of DYFI it has argued that mining should be extended for a period of 20 years (up to 2019) by KIOCL without any hindrances. The extension of lease should be subject to the following conditions and priority given to closing operation of the mine during the last 3 years of the extended lease period. It has come out with a 10 suggestions for the KIOCL for future operations.

The Chikmagalur Superintendent of police Madhukar Shetty and District Commissioner Harish Gupte tried to resolve the crisis by distributing the excess land from Bobsale estate near Khalsa, which had 500 acre from encroachment and tried to regularize land for rehabilitation for the contract workers. The collective pressure of coffee estates led to the transfer of SP and DC transferred within a week time. The claim of compensation for the workers of KIOCL in case of closure of Mining in Kudremukh National Park were the Management and Government of Karnataka is totally silent regarding the compensation on grounds of legal and moral obligation to pay such compensation.
Conclusion

The limitation of grassroots movements due to its emphasis on rural areas and stress on local situation and politics is constrained in going to the courts, which they believe as a time consuming, and often long-drawn affair, which is not possible to sustain due to financial, constrains. The NGOs like wildlife first have relied more upon public interest litigation. Environmental issues especially relating to pollution are extremely technical in nature, and the courts handicapped by their limited scientific capabilities. In a number of cases, the courts have emphasized bodies/tribunals to deal with environmental issues, but not much progress has taken place in this direction. The unique manner in which the CEC constituted and giving it a status beyond that envisaged under the Environment Protection Act, with its membership, powers and functions having been assigned by the directions of the Supreme Court itself.

However, in recent years there has been a lot of criticism against PIL, which has a public interest because of the political motive and as a strategic part of their job description. The resources and willingness to litigate public causes limited by their own internal agenda –setting interests in addition to the other apparent and external factors of the government behind such decisions.83 The major issue, which was hindering the clearance of mining lease, was the primary declaration of Kudremukh National Park, which includes the entire KIOCL project lease of 4605 hectares also.

The Supreme Court in its final judgment had emphasized the need to implement the provisions of the Convention on Biological diversity. This convention in the light of global ecological crisis highlights the need for public awareness regarding ozone layer, global warming, and the rising rate of species extinctions resulting from planetary destructions of ecosystems. The main agenda of the summit was to launch a sustainable development for the twenty first century for ecological, floral, faunal, natural or zoological significance.