



MINING TODAY 2018

International Conference-cum-Exhibition

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Recommendations on the deliberations held during Technical Sessions in International Conference-cum-Exhibition, Mining Today 2018.

During the technical sessions in the International Conference of Mining Today 2018, the main recommendations evolved based on deliberation are as under:

I. Identification of Mineral Bearing Areas:

- A Committee consisting of Members from Geological Survey of India, Mines & Geology; Forest and Revenue Dept. should be constituted for identification of mineral bearing areas.
- Such mineral bearing areas shall be declared as 'Mining Zones' with zoning regulations and such areas shall not be allotted for other than mining purpose, as the mineral is location specific.

II. Declaring Mining as an Industry:

- Recommendation for granting industry status to mining so as to facilitate comprehensive financing of mine development and also exploration which is integral to development of the mineral sector.

III. Auctioning of mining leases expiring in 2020 & 2030:

- Auctioning of mining leases 2020/2030 pertains to non-captive & captive consumption requires re-examination by GoI.
- Though captive leaseholder got 'first refusal' clause, in case of failure to win the bid, would be left with industry without mining lease leading to incur losses.
- Any entrepreneur who has mining lease for a particular mineral integrity with captive industry shall be allowed to continue till mineral is exhausted.

- The captive mining lease shall be renewed from time to time till mineral is exhausted on par with Central & State PSUs as performance & production depends on the demand and accordingly value addition.
- Successful bidder may have the mining lease, but not the captive unit.
- In case of non-captive mining leases, renewal clause may be considered on par with captive mining lease so as to encourage merchandize for uninterrupted supply of minerals to downstream industries and to prevent sudden large scale unemployment in the mining industry.
- The mining lease holder shall conduct mining operations and sell in the market based on the demand and the quality of mineral available in the lease.
- Associated minerals identified at a later date, provision to be incorporated for inclusion of such associated minerals and the lessee shall pay the royalty as fixed by GoI from time to time.

IV. Mineral Concessions in Tribal Areas:

- The mineral concession in the Schedule Areas should be considered without auction against the provisions for auction as envisaged in MMDRA Act 2015.
- The scheduled tribes may not participate in the auction process because of high bid value and their financial status.
- The scheduled areas shall be considered as per provision of PESA Act and Rules wherein the Gram Panchayath and Gram Sabha select an individual or society from scheduled tribes. The individual or society shall extend training, provide financial assistance for investment, technology & equipment should be made available to them for carrying out mining operations.

V. Hon'ble Supreme Court orders, Dt:02.08.2017:

1. The Hon'ble Apex Court vide its orders, Dt:02.08.2017 in WP Civil No.114/2014, while dealing with Iron Ore & Manganese Ore leases existing in Odisha State, it was held that for existing mining activity conducted without EC & FC permission, attracts penalization under Section 21(5) of MMDR Act.

2. On overall examination of the orders, the judgement is related/confines to mining leases for Iron Ore & Manganese Ore leases existing in Odisha State.
3. The Hon'ble Supreme Court while dealing with rapaciously mined Iron Ore & Manganese Ore in the Districts of Keonjhar, Sunderghar & Mayurbhunj in Odisha State, interpreted the definition of illegal mining as *'if any mining operation is conducted in violation of any of these requirements {terms of mining scheme, statutes such as EPA, FCA, Water (Prevention & Control of Pollution) Act 1974 and the Air (Prevention & Control of Pollution) Act 1981}, then the mining operation is illegal or unlawful. Any extraction of a mineral through an illegal or unlawful mining operation would become illegally or unlawfully extracted mineral. Hence, the Court dealt that the illegal or unlawful extracted & transported mineral shall be penalized and attracts penalty under Section 21(5) of MMDR Act'.*

Deliberations during the Technical Session on the above said Apex Court orders:

- As per Sec. 21(5) of MMDR Act 1957 an illegal is defined as under:

'Whenever any person raises, without any lawful authority, any mineral from any land, the State Govt. may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority'.

From the above, it is evident that if any person raises without 'lawful authority' i.e., without having mining leases granted (under Section 4(1) of the Act), extracted any mineral from any land, the State Govt. may recover rent, royalty or tax from such person.

The Section 21(5) shall be read with sub-sections preceded and it cannot be isolated while imposing penalty under the said Section for a violation committed under different Act/Rules.

In the said scenario, the violation committed other than MMDR Act (i.e., under EPA, FC etc) cannot be construed to penalize under the MMDR Act. Example, if a mining leaseholder commits violations under EPA should be penalized under EPA Act/Rules, but cannot be penalized under MMDR Act as interpreted by the Hon'ble Apex Court in the above.

- Environmental Clearance (EC) shall be considered by EC Committee based on the approved quantity in the approved mining plan.
- EC should be co-terminus with mining/quarry lease period.

VI. Constitution of Committee at State Level for EC:

- A Committee consisting of Members from Mines & Geology; Industries; Forest and Pollution Control Board should be constituted for surveillance/monitoring, efficient mechanism for grant of statutory clearances, sustainability, intergenerational equity, macro environmental impact assessment etc.
- The Committee shall recommend the following to MoEF through Ministry of Mines:
 - Delay in obtaining clearances to be carried out in an environmentally sustainable manner & shall be ensured that the regulatory environment is conducive to ease of doing business with simpler, time-bound procedures for obtaining clearances.
 - The statutory clearances shall be issued in a time bound manner under 'Single Window System'.
 - EC shall be disposed within (6) months.
 - FC shall be disposed within (1) year.
 - The Ministry of Mines, GoI addressed MoEFCC for setup maximum number of SECA/SEIAA bodies based on the census 2011 for the population of more than 10 lakhs or distance parameter of 300 to 400 KM. accordingly, SEAC/SEIAA bodies should be established, so as to dispose the maximum number of EC clearances and decrease the pendency of EC applications.
 - Delegation of powers to concerned State EFS&T/SEAC/SEIAA for violation and rectification of contravention/violation of conditions under Section 19 readwith Section 15 of EPA 1986 instead of Central level as per S.O.804(E), Dt:14.03.2017.
 - The MoEFCC may issue notices under Section 19 readwith Section 15 of EPA 1986 for violation of not having EC as issued earlier, but not under Section 21(5) of MMDR Act 1957.
 - Delegation of powers to concerned State SEAC/SEIAA for grant of EC on cluster of mining/quarry leases irrespective of extent of area/cluster.

- EC is sufficient to conduct mining/quarry operations. CFE & CFO may not be insisted.

VII. Rationalization of Taxation & Royalty:

- In India, mining is highest taxed in the world. This is the pan-India Industry's view today. Taxes should be reduced to international averages to encourage private investment into exploration.
- Tax holidays for the first five years is the need of the hour for attracting investments into exploration and mining of all non-bulk minerals and metals on which India has been heavily dependent on imports.

VIII. Mineral levies on mining of major minerals

- Mineral Royalty paid on ad-valorem basis need to be stabilized.
- Provisional assessment and adjustments in royalty should be carried out at the end of financial year.

IX. Granite Conservation & Development Rules:

- Royalty on granite may be made uniform across the States.
- Tonnage factor for evaluation of royalty may be taken into consideration.
- In the light of recession in granite industry, GoI may consider exemption from levy of additional taxes apart from royalty.
- No auctions for granite cutting & polishing material.
- To form uniform guidelines for implementing across the country.

X. Beach Sand Minerals (BSM):

- A separate 'Beach Sand Minerals Concession Rules' needs to be brought in along with a 'Monazite Policy'.
- Open Monazite exploration and mining to private parties to encourage them to go for extraction of Rare Earth Elements.
- All BSM are required to be reclassified as part 'C' or Fourth Schedule Minerals and delisted from prescribed substances.

- Since mining for Beach Minerals is involved with simultaneous back filling and restoration of the land to its original state unlike other mining, the Govt. shall facilitate easy acquisition of the land and return back the land to the owner which will facilitate exploitation of huge reserves of 30% of the world of Ilmenite which will vastly improve production, reserve ratio from the present meagre 0.0018 as against world's average of 0.01 which will also improve exports to the Country immensely.

XI. Other issues:

- New Mineral Policy should address concerns of minimizing risks in auction procedure system by formulating single window clearance viz., acquirement of land, obtaining clearances etc.
- Ministry of Mines, GoI may form a team at central level and make such team to visit all mineral rich countries like Canada, Brazil, Australia, South Africa, China etc., where the process of grant of RP/PL/ML be studied and review the present Policy.
- Framework may be evolved for seamless transition from Reconnaissance to Prospecting to Mining Lease atleast for 'strategic minerals' to encourage inflow of FDI/MNCs as envisaged in NMP 1993, wherein it was more flexible.
- High costs are involved in mining in the country due to auction process, which may lose the international market.
- Government must support beneficiating industry for utilization of low grade ores, emphasizing on waste management & conservation.
- Incentivize mineral based industry who bring latest technology and investment for scientific and sustainable mining.
- Incorporating provision for reservation of areas for private entrepreneurs on par with Central & State PSUs, who come forward to establish captive mineral based industry with latest technology involving beneficiation and zero waste management.

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