

# MMDR Ordinance to give a new lease of life to mining

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**In a major bid to provide a new lease of life to the stalled Indian mining sector, President Pranab Mukherjee promulgated Mines and Minerals Development and Regulation Amendment Ordinance 2014 (MMDR) in early January. The amended MMDR allows the government to allow mining leases up to 50 years.**

## The Ordinance

The Union Cabinet has approved the MMDR (Amendment) Ordinance, 2014, recently. According to the Mines Ministry officials, the ordinance was signed by the President late on January 12. The ordinance would pave the way for the auction of iron ore and other non-coal mineral mines. It will also enable creation of District Mineral Funds for the welfare of project-affected people. The need for taking the Ordinance route was felt as the Government was finding it difficult to allocate mines because the Mines Ministry could not table a Bill in the winter session of Parliament to amend the MMDR. Industry body, the Federation of Indian Mineral Industries, however, has been opposing the auction route, saying it would sound the 'death knell' for the industry and could lead to cartelisation and waste. While a draft Bill was put up on the Ministry's website for public comments, the Mines and Minerals (Development and Regulation) (Amendment) Bill, 2014, could not be tabled during the winter session of parliament that ended last month. The Ordinance would also enable greater decentralisation of power to States for allocation of resources. The mining sector has been facing several issues like ban for the past few years.

The previous UPA Government had also brought a Bill in 2011 to amend the Act but it lapsed with the dissolution of the previous Lok Sabha.

## Provisions

The amendment provides for granting mines for 50 years through a competitive bidding route including e-auction. It empowers the Centre to prescribe terms and conditions and procedure for bidding which include production sharing or royalty payment or a combination of both. "For the purpose of granting a mining lease in

respect of any notified mineral in such notified area, the state government shall select, through auction by a method of competitive bidding, including e-auction," the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, said.

The ordinance approves granting of mining leases for a period of 50 years. Those already granted before it would also be deemed to have been given for a period of 50 years. On the expiry of the lease period, the lease shall be put up for auction as per the procedure in this Act. The Ordinance also prescribes setting up of a non-profit trust, District Mineral Foundation, for the welfare of the project-affected people. The objective of the District Mineral Foundation shall be to work for the interest and benefit of persons, and areas affected by mining related operations. The holder of a mining lease or a prospecting licence-cum-mining lease would have to pay to District Mineral Foundation in addition to the royalty, but not exceeding one-third of such royalty. Also there is a provision for setting up National Mineral Exploration Trust and the holder of the lease or a prospecting licence-cum-mining lease would pay 2 per cent of the royalty. Violators would be punished with fines of upto Rs 5 lakh per hectares of the area and imprisonment for up to five years.

**Following are the key features of the Ordinance:**

- Removal of discretion; auction to be sole method of allotment: The amendment seeks to bring in utmost transparency by introducing auction mechanism for the grant of mineral concessions. The tenure of the mineral concession have been increased from the existing 30 years to 50 years.
- Impetus to the mining sector: The mining industry has been aggrieved due to the second and subsequent renewals remaining pending. In fact, this has led to closure of a large number of mines. The Ordinance also addresses this issue. The Ordinance provides that the Mining Leases would be deemed to be extended from the date of their last renewal to 31st March, 2030 (in the captive miners) and till 31st March, 2020 (for the merchant miners) or till the completion of the renewal already granted, if any, whichever

is later.

- Safeguarding interest of affected persons: There is provision to establish District Mineral Foundation (DMF) in the districts affected by mining related activities.
- Encouraging exploration and investment: Further, the Ordinance proposes to setup a National Mineral Exploration Trust created out of contribution from the mining lease holders, to have a dedicated fund for encouraging exploration in the country.
- Simplification of procedures and removal of delay: The amendment removes the need for previous approval from the Central Government for important minerals like iron ore, bauxite, manganese, etc., thereby making the process quicker and simpler. Similarly, the State Governments is empowered to devise a system for filing of a mining plan obviating need for approval by the Central Government. The Ordinance also provides that the tenure of any Mining Lease would now be 50 years in place of 30 years in the existing Act.
- Stronger provisions for checking illegal mining: In order to address the escalating problem of illegal mining, the penal provisions have been made further stringent- Higher penalties up to Rs 5 lakh and imprisonment up to 5 years.

**A big hurdle for existing licensee**

There are many grey areas in the Ordinance which need to be addressed. For example, the Ordinance empowers the state to allot minerals for extended tenure for captive users. "Who will decide on the nature of captive users?" asked Haresh Melwani, Chief Executive Officer, H L Nathurmal & Co., a Goa-based iron ore miner and exporter.

Also, the fate of independent miners hangs in balance as the Ordinance does not have any clarity with regard to exporters. "This is the first step. We are pleased that something has been moved. Now, we would work with the government to bring more clarity on certain aspects and also urge to reduce export duty from the existing 30 per cent to allow miners ship minerals overseas," said R K Sharma, Secretary General, Federation of Indian Mineral Industries.

Goa had 90 million tonnes of annual

output till recently. Mining was suspended in September 2012 on recommendations from the Supreme Court-appointed M B Shah commission. While the state is rich in natural resources, it lacks processing units and steel mills. Hence, all minerals were transported for processing to other states or exported, to China, before suspension of mining.

**Goa government lifts mining ban**

Soon after the MMDR Ordinance promulgated, the government of Goa lifted mining ban on January 15. Also, the government hinted that the fresh auction of minerals will start soon. The state government on Thursday issued an order revoking its 2012 order that had halted the over 60-year-old-mining industry in Goa. The new order will pave the way for the resumption of mining activities in the state, pending the lifting of the ban imposed by the ministry of environment and forests (MoEF). The Supreme Court had lifted the ban on April 21, 2014. But mining operations has remained suspended pending finalizing new policy. The state government had banned mining activities in Goa on September 10, 2012, even before the Supreme Court had imposed the ban in October 2012.

**A revolutionary step: Tomar**

Narendra Singh Tomar, Union Minister of Steel and Mines said that the MMDR Ordinance is a revolutionary step in revival of mining sector in the country, hitherto stagnated due to various reasons. Addressing a meeting of mines ministers and secretaries from across the country, the minister said that auction will bring in greater transparency and higher revenue for the states. Simultaneously simplification and transferability will also attract private investment. He added that the classification of minerals will lead to their better scientific exploration and with more power to the states mining process will be expedite. Pressing upon the need for developing a sound database for minerals in India, Tomar averred that detailed exploration is the first step in mining and to set realistic goals and make workable plans, it is imperative to know the true measure of our resource base. He stated that as per preliminary assessment, 199 cases of various states would be ready

for auction with some effort. But such auctions would also depend on the finalisation of modalities for conducting auction and subordinate rules therein. The Minister pointed out other provisions of the Ordinance, such as, stricter penalties for illegal mining, establishment of National Minerals Exploration Trust (NMET) to give impetus to exploration, removal of prior approval of the centre to eliminate delays, and provision for District Mineral Foundation (DMF) to address the concerns of mining-affected people. Citing the example of falling levels of iron ore production in the country, Tomar urged states to revive mining in all earnestness. Acknowledging the uniqueness of different minerals and different regions, Tomar solicited opinions and suggestions of state representatives for firming up a holistic implementation plan to further strengthen the 'Make in India' vision of the government. Mining ministers and secretaries from different

states expressed optimism over the amendments, and offered constructive suggestions for its implementation on the ground level. It was agreed that delays in environment and forest clearances had to be resolved by MoEF for providing unhindered support in growth of mining.

#### Assessing committee

The Ministry of Mines has constituted up a committee chaired by Ranjan Sahai, Controller of Mines, Indian Bureau of Mines (IBM) for drafting the rules to prescribe parameters of evidence of existence of mineral contents. Other members of the committee include S K Adhikari, M K Somani and U I Gupta of IBM, S K Thakur of MECL, Anjan Chatterjee of GSI, T Natarajan and R S Kalamkar, Commissioner and Joint Director respectively of DMG, Deepak Kumar Mohanty, Director of Mines, Government of Odisha.

The committee shall prescribe

parameters of evidence regarding existence of mineral contents in line with the requirements of the Ordinance in unambiguous terms. The committee should consider all aspects of delineating mineralization for the purpose of earmarking it for direct mining lease (ML) auction or prospecting licence (PL) cum mining lease auction including the transition from Reconnaissance Permit to PL and PL to ML. The committee shall prescribe mineral wise / deposit wise parameters of evidence of existence of minerals contents. If required, the Committee may co-opt representatives from other mineral rich states as special members of the committee. The committee shall submit its draft report by January 29 to the ministry. Thereafter carry out consultations with stake holders on the draft report and submit its final report by February 13 to the Ministry.

