

No. 16/83/2024-Mines VI
Government of India
Ministry of Mines

Shastri Bhawan, New Delhi
Dated the 28th November, 2024

To

The Secretary,
Mineral Resources Department,
Government of Chhattisgarh,
Indravati Bhavan, Naya Raipur.

Subject: Clarification regarding inclusion of non-mineralized area in the existing mining lease for the purpose of dumping of mine waste/overburden.

Sir,

I am directed to refer to letter No. F 7-29/2016/12 dated 14.08.2024 received from Government of Chhattisgarh on the subject mentioned above and to say that the matter has been examined in the Ministry of Mines. The matter has earlier been clarified to Government of Odisha (copy enclosed).

2. It is informed that the Hon'ble Supreme Court, vide its judgment dated 21.04.2014 [**Goa Foundation I**] in W.P. (C) No. 435 of 2012 titled as '*Goa Foundation Vs. Union of India*', has directed that dumping of minerals outside the leased area of the mining lessees is not permissible under the MMDR Act and the Rules made thereunder.

3. As per clause (ac) of Section 3 of the MMDR Act, the definition of lease area includes the non-mineralized area required and approved for the activities falling under the definition of "mine" as referred to in clause (i) of the said Section. As per Section 2(1)(j) of the Mines Act, 1952, the definition of "mine" *inter-alia* includes any premises being used for depositing refuse from a mine. Rule 57 of the MCR 2016 provides that extent of area granted under a mineral concession shall also include non-mineralized area required for all the activities falling under the definition of "mine" under the Mines Act, 1952.

4. Therefore, from a coherent reading of the judgment of the Hon'ble Supreme Court and the provisions cited above it is apparent that dumping of waste material/overburden can only be done under a valid mining lease and that a mining lease shall include non-mineralized area for various ancillary activities including dumping of waste material/ overburden.

5. Further, proviso to Section 6(1)(c) of the MMDR Act allows the State Governments to grant mineral concessions in relation to any area which is not compact or contiguous in the interests of mineral development.

6. Accordingly, the following is clarified:

i. The State Governments are empowered to include additional contiguous

non-mineralized areas for the purpose of dumping of overburden in the existing mining lease without auction in the interest of mineral development. Such additional non-mineralized areas can be non-contiguous if it is in the interest of mineral development.

- ii. The State Government shall execute a supplementary mining lease deed for the additional non-mineralized area and amalgamate it with the existing mining lease area. Such additional area will be reckoned for area limits under Section 6 of the MMDR Act. The period of supplementary lease shall be co-terminus with the existing mining lease.
 - iii. The State Government has to satisfy itself that the existing area of the lease is not sufficient for dumping of overburden, waste/tailing or other necessary ancillary activities. The State Government shall consult IBM for assessing the need of additional area as well as quantum of additional area required.
 - iv. The State Government shall satisfy itself that the additional area is non-mineralized.
 - v. The State Government shall include a condition in the supplementary lease deed that no production of any mineral will be undertaken in the additional area and also take an undertaking from the lessee to this effect.
 - vi. The State Government shall inform IBM regarding execution of supplementary lease deed for non-mineralized area.
 - vii. In case of inclusion of non-contiguous area in the lease deed, the State Government will take all necessary measures required to ensure that no mineral is dispatched without payment of statutory levies.
7. This issues with the approval of Hon'ble Minister of Mines.

Yours faithfully,

(Vinod Kumar)
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Copy for information and necessary action to:

1. Controller General, IBM, Nagpur
2. The Principal Secretary/ Secretary, In-charge of Mining Department, All State Governments.