

NOTE ON ILLEGAL MINING

LEGISLATIVE PROVISIONS REGARDING ILLEGAL MINING:

1. Amendment in the Mines and Minerals (Development and Regulation) Act, 1957:

1.1 The Mines and Minerals (Development and Regulation) Act, 1957 [“MMDR Act, 1957”] was amended through the MMDR Amendment Ordinance, 2015 which was promulgated on 12th January, 2015. The Ordinance was replaced by the MMDR Amendment Act, 2015, notified on 27th March, 2015 and which came into effect from 12th January, 2015. Salient features of the MMDR Amendment Act, 2015 with respect to curbing illegal mining are given below:

- i. Major deterrents against the contravention of the MMDR Act, and rules frame thereunder including illegal mining have been introduced. The penalties have been increased from Rs. 25 thousand per hectares to Rs. 5 Lakh per hectares and term of imprisonment has been increased from 2 years to 5 years. [Section 21(1) & (2) MMDR Act] [**Annexure-I (A)**]
- ii. Provision for having special courts in respective states has been introduced under section 30B and 30C of the MMDR Act for providing speedy trial of the offences for contravention of the provisions of Section 4 (1) and 4 (1A) of the Act. As per section 30 C , these special courts shall have the powers of Court of session. However, as per information available, no special court has been set up by any State Governments so far.
- ii. 1.2 Amendment to MMDR Act on 28-03-2021 has clarified the expression mining without lawful authority .

2. Definition of illegal mining:

2.1 Illegal mining is defined under Rule 2(1)(c) of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 as:

(A) “Illegal mining” means any reconnaissance or prospecting or mining operation undertaken by any person or a company in any area without holding a mineral concession as required under sub-section (1) of section 4.

Explanation – For the purpose of this clause, -

- a. *violation of any rules, other than the rules made under section 23C, within the mining lease area by a holder of a mining lease shall not include illegal mining; and*
- b. *any area granted under a mineral concession shall be considered as an area held with lawful authority by the holder of such mineral concession, while determining the extent of illegal mining.*

(B) Section 21 of the MMDR Act has been amended through the MMDR Amendment Act, 2021 (w.e.f. 28.03.2021) through which an explanation to section 21 has been inserted to clarify the scope of the phrase raising mineral ‘without lawful authority’ used in section 21. The said explanation states that the expression “raising, transporting or causing to raise or transport any mineral without any lawful authority” occurring in section 21, shall mean raising, transporting or causing to raise or transport any mineral by a person without prospecting licence, mining lease or composite licence or in contravention of the rules made under section 23C. **[Annexure-I (B)]**

3. Role of State Government in prevention and control of illegal mining

3.1 As per Section 23C of the MMDR Act, powers have been delegated to the State Government to frame rules to curb illegal mining, transportation, and storage of illegally mined minerals. Any orders passed by the State Governments under these Rules cannot be appealed against before the Central Government. **[Annexure-II]**

3.2 Accordingly, 21 State Governments namely, Andhra Pradesh, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Nagaland, Orissa, Punjab, Rajasthan, Tamilnadu, Uttar Pradesh, Uttaranchal, and West Bengal have framed rules under section 23C of MMDR Act, 1957 to curb illegal mining.

3.3 State Governments were requested to set up Task Forces at State and District Level to control illegal mining in the year 2005. Subsequently, 22 States have set up Task Forces specially constituted to control illegal mining and review the action taken by member departments for checking the illegal mining activities at state and district levels, so far. Andhra Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Nagaland, Odisha, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal have constituted Task Forces.

3.4 As per the existing law, State Governments are the appropriate authorities for prevention of illegal mining because:

- i. Mining leases are entered into by the State Governments with reference to land description in the Revenue Records maintained by the State Government. Therefore the State Governments can only demarcate the lease boundaries, and assess any illegal mining activity outside the lease area.
- ii. The State Governments are the owners of mineral rights and control police, and law and order machinery. Any action to curb theft of minerals needs direct interventions at the level of State Government.
- iii. MMDR Act has empowered the State Governments to frame Rules for preventing illegal mining , transportation and storage of minerals under Section 23(C); provides for the State Government for setting up special courts under section 30B .
- iv. State Governments were requested to set up Task Forces at State and District Level to control illegal mining.

4. Role of Ministry of Mines in prevention and control of illegal mining

4.1 The role of Central Government in prevention and control of illegal mining is limited to the extent of sustainable development of mineral resources and ensuring the compliance of

provisions of the Mineral Conservation and Development Rules, (MCDR), 2017 [MCDR Rules, 2017] by inspection through Indian Bureau of Mines (a subordinate office of the Ministry) in a mining lease area and to detect violations of provisions MCDR during its inspections.

4.2 Violations of the MCDR, 2017 can be categorized as serious violations and less serious violations. Serious violations include deviation from approved Mining Plan/ Review of Mining Plan, non-submission of Review of Mining Plan, misreporting and failure to submit information under Rule 45 of MCDR. Less serious offences include non-timely submission prospecting report, geological report, information on temporary discontinuation of working etc.

4.3 For all MCDR violations, IBM issues violation letters seeking rectification of the violation, failing which prosecution is launched. In case of serious violations, IBM may also suspend mining operations. For non-compliance of Rule 45, IBM recommends to State Govt. for suspension of mining operations.

4.4 Minerals other than those specified under Part A and Part B of the First Schedule to the MMDR Act are regulated by Ministry of Mines.

4.5 Minerals specified under Part A of the First Schedule to the MMDR Act are regulated by the Ministry of Coal.

4.6 Atomic Minerals specified under the First Schedule to the MMDR Act comes under the purview of Department of Atomic Energy.

5. Quarterly return of illegal mining:

5.1 State Governments submit quarterly returns of illegal mining to IBM. As per the instances of illegal mining reported in various parts of the Country and action taken by the concerned State Governments is at **Annexure-III**.

6 Action taken by the Ministry of Mines and Indian Bureau of Mines to curb illegal mining:

6.1 Rule 45 of the Mineral Conservation and Development Rules, (MCDR) 2017 makes it mandatory for all miners, traders, stockist, exporters and end-users of minerals to register and report on the production, trade and utilization of minerals to the State Government(s) and Indian Bureau of Mines. It facilitates end-to-end national-scale accounting of all minerals produced in the country from the pit head to its end-use, reducing the scope for illegal mining, royalty evasion, etc.

6.2 (b) State-wise registration details of miners, traders, stockiest, exporters and end-users of minerals under Rule-45 of MCDR are given at **Annexure-IV**.

6.3 In terms of section 5(2)(b) of the Mines and Minerals (Development and Regulation) Act, 1957, approval of the mining plan is made pre-requisite for grant of mining lease for major minerals. Mining Plan is a document to ensure scientific and sustainable mining .

7 Use of Mining Surveillance System for curbing the illegal mining in the country

7.1 The Ministry of Mines, through Indian Bureau of Mines, has developed the Mining Surveillance System (MSS), in coordination with Bhaskaracharya Institute for Space Applications and Geo-informatics (BISAG), Gandhinagar and Ministry of Electronics and Information Technology (MEITY), to use space technology for curbing illegal mining activity in the country. The launching of this system was done by Hon'ble Minister of Mines on 15th October, 2016.

MSS is a satellite-based monitoring system which aims to establish a regime of responsive mineral administration, through public participation, by curbing instances of illegal mining activity. MSS is a transparent & bias-free system, having a quick response time and capability of effective follow-up. The deterrence effect of 'Eyes watching from the Sky' has been extremely fruitful in facilitating the State Governments in curbing instances of illegal mining. The system checks a region of 500 meters around the existing mining lease boundary to search for any unusual activity which is likely to be illegal mining. Any discrepancy, if found is flagged-off as a trigger. A mobile app has also been developed and launched to facilitate detection of cases of illegal mining (**Annexure-V**).

State Governments have been advised to implement the MSS for Minor Minerals within their States. Further, Ministry of Mines through IBM and BISAG-N have conducted the training for the officials of State Governments and the MSS triggers generated from the MSS are also sent to respective State Governments. Detailed status of MSS is given below:

- i. During the first phase in year 2016-17, 296 triggers were generated from 2738 major mineral leases plotted, out of these, field verification report of 287 triggers is received in the system. The State wise status is enclosed as **Annexure-VI**.
- ii. During the 2nd phase (2018-19), 52 major mineral triggers, detected from the 3280 plotted leases across the country. During this phase 130 minor mineral triggers have also been detected, from the minor minerals leases of about 12000, which were plotted on the pilot basis as a part of the capacity building program of the various State Government organized by the Ministry of Mines.
- iii. The field verification status of triggers generated of 2nd phase major mineral and minor mineral is attached as **Annexure-VII and Annexure-VII** respectively.
- iv. For the major mineral field verification report of 45 trigger is received and in 5 cases unauthorized mining has been confirmed (**Annexure-VII**). For minor mineral field verification report of 104 trigger is received and in 9 cases unauthorized mining has been confirmed (**Annexure-VII**).
- v. The work of third phase MSS trigger generation for major mineral plotted leases, is in progress at BISAG. They have acquired about 960 high resolution satellite images (Cartosat-2E) from NRSC, having resolution of 60 cm. Earlier they were using Cartosat-1 satellite images, which had resolution of 2.5 m. Hence, there is considerable improvement in the system as high resolution satellite images are being used for the 3rd phase trigger generations.
- vi. In the third phase in February, 2021, 80 preliminary triggers are generated for major minerals and uploaded on the portal for further transmission to the state governments (**Annexure-IX**).
- vii. Apart from above triggers, there are 54 citizen complaints received from citizens out of which field verification report of 18 complaints is received in the system. The state wise status is enclosed as **Annexure-X**
- viii. Most of the States have also been imparted training on the MSS for extending the

MSS for minor minerals. So far, 179 officials from 27 states and 1 Union Territory has also been imparted training on the MSS for extending the MSS for minor minerals.

Annexure-I (A)

21. Penalties:

(1) Whoever contravenes the provisions of sub-section (1) or sub-section (1A) of section 4 shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area.

(2) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five lakh rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to fifty thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

[Annexure-I (B)]

In section 21 of the principal Act, after sub-section (6), the following Explanation shall be inserted, namely:—

'Explanation.—On and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, the expression “raising, transporting or causing to raise or transport any mineral without any lawful authority” occurring in this section, shall mean raising, transporting or causing to raise or transport any mineral by a person without prospecting licence, mining lease or composite licence or in contravention of the rules made under section 23C.’.

Annexure-II

23C. Power of State Government to make rules for preventing illegal mining, transportation and storage of minerals.

(1) The State Government may, by notification in the Official Gazette, make rules for preventing illegal mining, transportation and storage of minerals and for the purposes connected therewith.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) establishment of check-posts for checking of minerals under transit;

(b) establishment of weigh-bridges to measure the quantity of mineral being transported;

(c) regulation of mineral being transported from the area granted under a prospecting licence or a mining lease or a quarrying licence or a permit, in whatever name the permission to excavate minerals, has been given;

(d) inspection, checking and search of minerals at the place of excavation or storage or during transit;

(e) maintenance of registers and forms for the purposes of these rules;

(f) the period within which and the authority to which applications for revision of any order passed by any authority be preferred under any rule made under this section and the fees to be paid therefor and powers of such authority for disposing of such applications; and

(g) any other matter which is required to be, or may be, prescribed for the purpose of prevention of illegal mining, transportation and storage of minerals.

(3) Notwithstanding anything contained in section 30, the Central Government shall have no

power to revise any order passed by a State Government or any of its authorised officers or any authority under the rules made under sub-sections (1) and (2).]

Annexure-III

Quarterly Return on Illegal Mining submitted to IBM

Illegal mining cases						Action taken from 2016-17 to 2019-20			
Sr. No.	State	2016-17	2017-18	2018-19	2019-20	FIR Lodged (Nos.)	Court Cases Filed (Nos.)	Vehicle Seized (No.)	Fine realized by State Govt. (Rs. Lakh)
1	Andhra Pradesh	9703	8128	7644	8354	37	20	1533	64376.031
2	Chhattisgarh	4794	4857	5060	6449	0	21160	0	3552.854
3	Gujarat	8325	7827	7679	7476	471	49	25385	32654.370
4	Haryana	1345	1391	1380	1251	658	0	0	1693.466
5	Himachal Pradesh	783	1753	590	2424	42	704	17	137.605
6	Jammu & Kashmir	n. r.	1485	n.r	n.r	0	0	1485	15.896
7	Jharkhand	838	2772	3132	3269	2686	1070	10031	4183.045
8	Karnataka	5692	4669	4101	4935	4362	1197	3176	9024.074
9	Kerala	4861	8315	7797	8575	0	0	0	17061.620
10	Madhya Pradesh	13880	15205	16405	8223	483	28005	2479	175257.356
11	Maharashtra	31173	26628	13436	10456	6576	0	81693	37868.650
12	Odisha	45	47	29	16	2	0	9	771.055
13	Rajasthan	3945	6632	17118	4027	2873	47	296065	22910.339
14	Tamilnadu	87	132	113	66	30764	470	42936	13320.303
15	Telangana	5839	6143	6553	7039	0	0	2	6132.960
16	Uttar Pradesh	5737	20214	24455	n.r	677	4423	0	13864.060
Grand Total		97047	116198	115492	72560	49631	57145	464811	402823.684

n. r. – quarterly return not received.

Annexure-IV

Registration under Rule 45 of MCDR 1988 with **Indian Bureau of Mines (Ministry of Mines)**

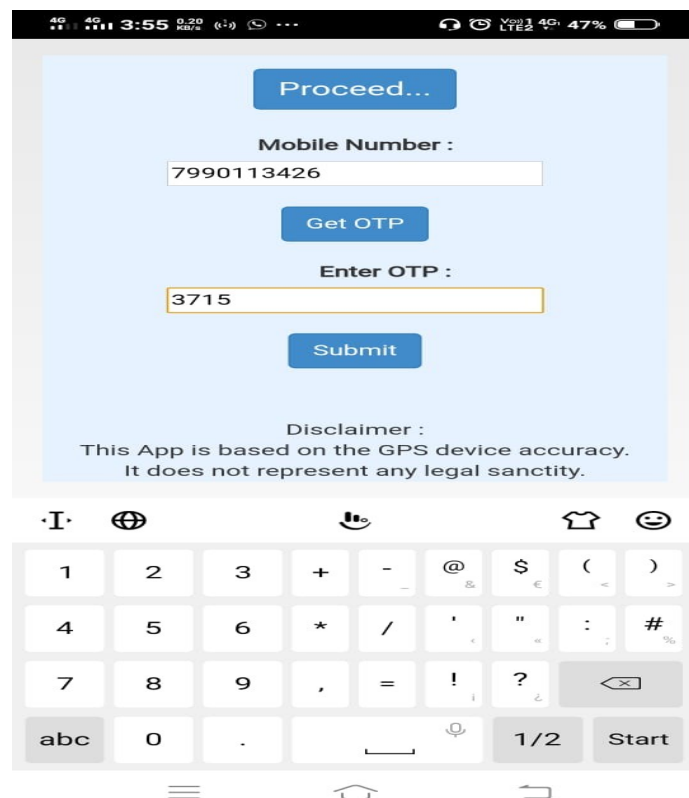
Title: Activity Wise Registration Report

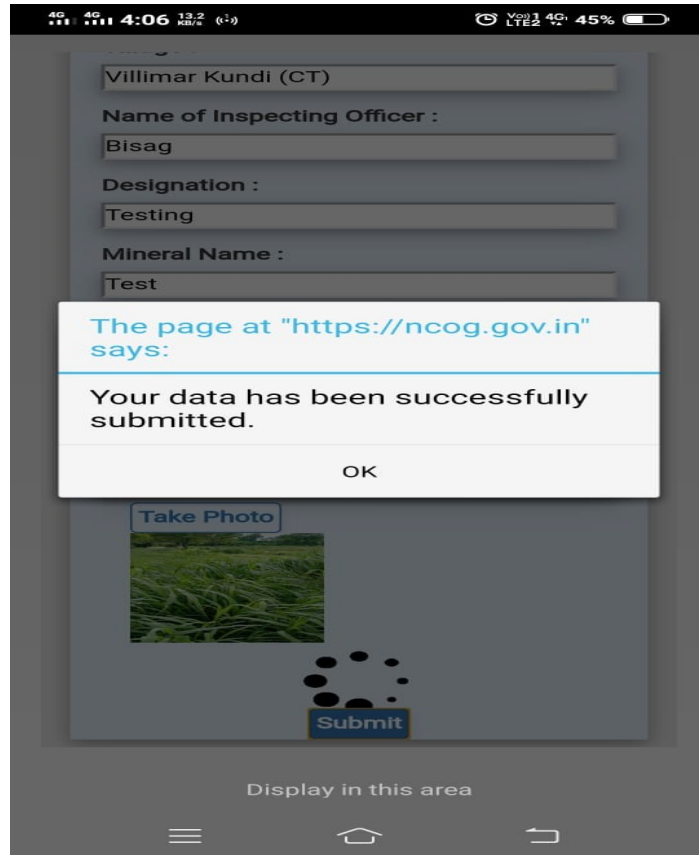
For all Category: (State wise)

Registration No. issued for the period of (01/01/2011 to 31/10/2030)

Sl. No	Name of State/Region	Mining during period	Trader during period	Exporter during period	Storage during period	End User during period	Total
1	ANDAMAN NICOBAR ISLAND	1	1	1	1	2	6
2	ANDHRA PRADESH	938	729	82	182	159	2090
3	ARUNACHAL PRADESH	3	0	0	0	1	4
4	ASSAM	6	3	0	2	12	23
5	BIHAR	9	4	0	1	13	27
6	CHANDIGARH	4	1	0	0	1	6
7	CHHATTISGARH	203	338	30	88	145	804
8	DADRA & NAGAR HAVELI	0	0	1	1	4	6
9	DAMAN & DIU	1	1	0	1	1	4
10	DELHI	27	68	27	16	57	195
11	GOA	127	340	94	127	29	717
12	GUJARAT	596	519	53	305	433	1906
13	HARYANA	15	12	5	3	39	74
14	HIMACHAL PRADESH	37	29	0	7	11	84
15	JAMMU & KASHMIR	54	2	0	1	14	71
16	JHARKHAND	139	218	16	123	93	589
17	KARNATAKA	393	425	85	90	238	1231
18	KERALA	60	31	10	6	36	143
19	MADHYA PRADESH	479	274	9	78	177	1017
20	MAHARASHTRA	177	591	112	167	396	1443
21	MEGHALAYA	14	3	3	0	10	30
22	ORISSA	174	649	174	197	374	1568
23	PONDICHERY	4	10	1	4	4	23
24	PUNJAB	1	13	2	5	31	52
25	RAJASTHAN	1973	830	29	180	490	3502
26	TAMIL NADU	453	443	80	97	300	1373
27	TELANGANA	244	161	35	38	87	565
28	TRIPURA	0	0	0	0	1	1

29	UTTAR PRADESH	64	55	18	14	99	250
30	UTTARANCHAL	84	13	1	8	20	126
31	WEST BENGAL	105	384	132	94	294	1009
	Total	6385	6147	1000	1836	3571	18939





Phase -1 Trigger Status (2016-17)**A. Major Minerals**

State	Total Trigger	Total Field verifications	% Verification	Number of Unauthorized cases (2016-17)
CHHATTISGARH	6	6	100%	1
MEGHALAYA	8	1	12%	
RAJASTHAN	23	22	95%	1
GUJARAT	32	32	100%	12
TAMIL NADU	29	29	100%	10
HIMACHAL PRADESH	11	11	100%	0
MADHYA PRADESH	46	46	100%	5
ODISHA	20	20	100%	0
MAHARASHTRA	8	7	87%	1
KARNATAKA	35	35	100%	1
TELANGANA	6	6	100%	0
GOA	42	42	100%	12
JHARKHAND	1	1	100%	0
ANDHRA PRADESH	29	29	100%	4
Total	296	287	97%	47

ANNEXURE-VII

Phase -II Trigger Status (2018-19)**A. Major Minerals**

State	Total Trigger	Total Field verifications	% Verification	Number of Unauthorized cases (2018-19)
ANDHRA PRADESH	8	8	100%	1
CHHATTISGARH	4	3	75%	
GUJARAT	7	7	100%	2
HIMACHAL PRADESH	2			
JAMMU & KASHMIR	2	2	100%	
JHARKHAND	1			
KARNATAKA	4	4	100%	
MADHYA PRADESH	4	4	100%	
MAHARASHTRA	3	3	100%	1
ODISHA	2	2	100%	
RAJASTHAN	8	8	100%	
TAMIL NADU	7	4	57%	1
Total	52	45	87%	5

ANNEXURE-VIII

B. Minor Minerals

State	Total Trigger	Total Field verifications	% Verification	Number of Unauthorized cases (2018-19)
ANDHRA PRADESH	8	8	100%	0
CHHATTISGARH	4			
GOA	3	3	100%	0
GUJARAT	27	27	100%	4
HARYANA	4	2	50%	
JHARKHAND	11	4	36%	
KARNATAKA	12	12	100%	
KERALA	5	3	60%	3
MAHARASHTRA	2			

RAJASTHAN	37	34	91%	1
TAMIL NADU	10	8	80%	1
TELANGANA	3	3	100%	0
UTTAR PRADESH	4			
Total	130	104	80%	9

ANNEXURE-IX

Phase -III Trigger Status (2020-21)

A. Major Minerals

State	Total Trigger	Total Field verifications	% Verification	Number of Unauthorized cases (2020-21)
ANDHRA PRADESH	15	0		
CHHATTISGARH	19	0		
MADHYA PRADESH	7	0		
GUJARAT	15	0		
MEGHALAYA	3	0		
JHARKHAND	4	0		
ODISHA	5	0		
MAHARASHTRA	2	0		
RAJASTHAN	5	0		
TAMIL NADU	5	0		
Total	80	0		

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ANNEXURE-X

Citizen Complaints Verification Report As On 23/June/2021

Total Citizen Complaints for Which Field Verification Report Submitted:14

No. of Unauthorized Mining Cases:2

No. of Minor Mineral Mining Cases Not Plotted:0

No. of Major Mineral Mining Cases Not Plotted:0

No Excavation is Found:6

No. of Other Than Mining Activity Cases:2

No Remarks Entered:4

STATE WISE STATUS

State Name	Received	Verified	(%)Percentage
ANDHRA PRADESH	1	0	0.00%
BIHAR	2	0	0.00%
CHANDIGARH	2	0	0.00%
GUJARAT	9	9	100.00%
HARYANA	5	0	0.00%
JHARKHAND	3	0	0.00%
KARNATAKA	4	4	100.00%
MADHYA PRADESH	3	2	66.67%
PUNJAB	2	0	0.00%
RAJASTHAN	6	1	16.67%
TAMIL NADU	11	0	0.00%
TELANGANA	1	1	100.00%
UTTAR PRADESH	1	0	0.00%
UTTARAKHAND	1	1	100.00%
WEST BENGAL	3	0	0.00%
Total	54	18	33.33%