Chapter-3

Mining Policy, Regulation and Conservation

Mining Law and Policy

3.1 The Central Government can exercise powers for regulation of mines and mineral development to the extent such regulation and development is declared by Parliament by law to be expedient in the public interest, as per Entry 54 of List-I of the Seventh Schedule to the Constitution of India. The State Governments, on the other hand, have been given powers under Entry-23 of List-II for regulation of mines and mineral development subject to the provisions of List-I with respect to regulation and development under the control of the Union. Parliament has enacted the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act, 1957) under Entry 54 of List I to provide for the regulation of mines and development of minerals under control of the Union.

3.2 In pursuance of the reforms initiated by the Government of India in July, 1991 in fiscal, industrial and trade regimes, the National Mineral Policy was announced in March, 1993. The National Mineral Policy recognized the need for encouraging private investment, including foreign direct investment and for attracting state-of-the-art technology in the mineral sector. Further, the policy stressed that the Central Government, in consultation with the State Governments, shall continue to formulate legal measures for the regulation of mines and the development of mineral resources to ensure basic uniformity in mineral administration so that the development of mineral resources keeps pace, and is in consonance with the national policy goals.

3.3 In furtherance of the objective of the National Mineral Policy, the MMDR Act, 1957 has been amended twice in 1994 and 1999. The Mineral Concession Rules, 1960 (MCR) and the Mineral Conservation and Development Rules 1988 (MCDR), framed under the MMDR Act, 1957 have also been modified. Salient features of the amended mining legislation are as follows:

(i) There is no restriction on foreign equity holding in mining sector companies registered in India.

(ii) There is greater stability of tenure of mineral concessions, since the minimum period of a mining lease is twenty years and a maximum period of thirty years. A mining lease may be renewed for a period not exceeding twenty years and may again be renewed for a period not exceeding twenty years in respect of minerals specified in Part C of the First Schedule of the Act. In respect of minerals specified in Part A and B of the First Schedule of the Act such renewal may be granted with the previous approval of the Central Government. The period of prospecting license is now three years, with possibility of renewal by a further period of two years.
(iii) Thirteen minerals like iron ore, manganese ore, chrome ore, sulphur, gold, diamond, copper, lead, zinc, molybdenum, tungsten, nickel and platinum group of minerals which were reserved exclusively exploitation for by the public sector have been thrown open for exploitation by the private sector.

(iv) With the 1999 amendment, a concept of reconnaissance operations, as a stage of operation distinct from and prior to actual prospecting operations, was introduced. The period of reconnaissance permit is three years. A reconnaissance permit holder enjoys preferential right for grant of prospecting licences.

(V) Area restrictions notified for reconnaissance permit, prospecting license and mining lease have been made applicable state-wise, instead of the country as a whole.

(vi) In 1994, fifteen minerals were removed from the list of minerals included in the First Schedule to the MMDR Act, 1957. With further amendments in 1999, the mineral limestone was deleted from the First Schedule, and permission of the Central Government is now required for grant of mining lease, prospecting license, and reconnaissance permit in respect of only ten non-fuel and non-atomic minerals. These minerals are asbestos, bauxite, chrome ore, copper ore, gold, iron ore, lead, manganese ore, precious stones and zinc.

(vii) State Governments have been delegated powers to grant mineral concessions even for areas which are not compact or contiguous.

(viii) State Governments have been empowered to permit amalgamation of two or more adjoining mining leases.

(ix) State Governments have been empowered to renew prospecting licenses/mining leases in respect of specified minerals listed in Part C of the First Schedule, and approval of Central Government is not necessary.

(x) State Governments have been delegated powers to approve mining plans in respect of 29 non-metallic/industrial minerals in case of open cast mines.

(xi) A time limit of ninety days has been prescribed for the Indian Bureau of Mines and the State Governments to convey the decision on mining plans submitted for approval.

(xii) Time limits have been prescribed for conveying a decision on applications for mineral concessions, viz. six months for reconnaissance permits, nine months for prospecting licences and twelve months for mining leases.

(xiii) The provisions of MCDR, 1988 were amended on 11th January, 2002 inserting a new rule providing for intimation of amalgamation of mining leases in 30 days, enhancing the penalties for violation of rules, etc.

(xiv) Rates of royalty of major minerals (other than coal, lignite and sand for stowing) were revised vide Gazette Notification dated 14.10.2004

(xv) To adopt a transparent benchmark value of minerals, guidelines for computation of royalty on ad-valorem rates for different minerals have been amended.
In the interest of scientific mining, the minimum area for the grant of mining leases has been fixed as one hectare in respect of small deposits (including float ore deposits), two hectares for beach sands or placers; and four hectares for all other mineral deposits.

( xvii)Provisions regarding submission of a progressive mine closure plan and final mine closure plan and financial assurance for fulfilling the reclamation and rehabilitation cost have been included.

( xviii)Statutory forms have been suitably amended and guidelines issued for implementation of the United Nations Framework Classification of mineral reserves/resources in the annual returns under MCDR, 1988.

( xix)Central Government has amended rule 66A of MCR vide Notification GSR 280 (E) Dated 5.5.2005 regarding special provisions relating to atomic minerals for better management of such minerals.

3.4 For a comprehensive review of the National Mineral Policy and to further improve the investment climate for mining in the country, the Planning Commission has constituted a High Level Committee under the Chairmanship of Shri Anwarul Hoda, Member, Planning Commission. The terms of reference of the Hoda Committee include review of existing procedures for grant of mineral concessions in order to streamline & simplify procedures, prioritise critical infrastructure needs of the Indian mining sector, facilitate investment to meet these needs, identify ways of augmenting State revenues, and allow issues relating to value addition and forest and environment clearance.

Response of the industry to the policy measures

3.5 After the introduction of the concept of reconnaissance permit, 202 reconnaissance permits covering an area of over 2,78,773.503 square kilometers have been granted prior approval till 31.12.2005, of which 25 reconnaissance permits for an area of over 40,607.55 square kilometers were approved for grant during the period from 01.01.2005 to 31.12.2005. The states for which reconnaissance permits have been approved so far are Andhra Pradesh (39), Karnataka (39), Rajasthan (40), Chhattisgarh (24), Madhya Pradesh (20), Orissa (21), Uttar Pradesh (10), Jharkhand (2), Haryana (1), Gujarat (4), West Bengal (1) and Kerala (1).