

Mineral Concession System

In the federal structure of India, the State Governments are the owners of minerals located within their respective boundaries. The Central Government is the owner of the minerals underlying the ocean within the territorial waters or the Exclusive Economic Zone of India.

In this context, the entry at serial No. 23 of List II (State, list) to the Constitution of India states, '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.'

The entry at serial No. 54 of List I (Central list) to the Constitution of India states, 'Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.'

In pursuance to the entry at serial No. 54 of List I, the Central Government have framed legislation titled Mines & Minerals (Development and Regulation)(MMDR) Act, 1957 as Central Act No. 67 of 1957.

The State Governments grant the mineral concessions for all the minerals located within the boundary of the State, under the provisions of the MMDR Act, 1957, and Mineral Concession Rules (MCR), 1960 framed thereunder. Under the provisions of the MMDR Act, 1957 and MCR, 1960, prior approval of the Central Government is required in the following cases:

- Granting mineral concessions in respect of minerals specified in the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957.
- Granting areas under reconnaissance permit prospecting licence and mining lease to a person in excess of limits prescribed under Section 6(1)(a)(a), 6(1)(a) and Section 6(1)(b) respectively of the Act.
- Imposing special condition(s) in mining lease under Rule 27(3), in prospecting licence under Rule 14(3) and in reconnaissance permit under Rule 7(3) of Mineral Concession Rules, 1960 over and above the conditions prescribed in MCR, 1960.
- Granting mineral concession in an area previously reserved by the Government, or previously held under a mineral concession, without first notifying the same by relaxing the provisions of Rule 59(1) of MCR, 1960 under Rule 59(2).
- Revision of any order made by State Government with respect to any mineral except a minor mineral.
- Relaxation of Rules in special cases under Section 31 of the Act, keeping in view the interest of mineral development.

Status of Mineral Concessions

There are three kinds of mineral concessions, viz Reconnaissance Permit (RP), Prospecting License(PL) and Mining Lease(ML).

RP is granted for preliminary prospecting of a mineral through regional, aerial, geophysical or geochemical surveys and geological mapping. The RP for any mineral or prescribed group of associated minerals is granted for 3 years and for a maximum area of 5,000 sq. kms, to be relinquished progressively. After 2 years, the area should be reduced to 1,000 sq. kms or 50% of the area granted, whichever is less. At the end of 3 years, area held under an RP should be reduced to 25 sq kms. In a State, a person can be granted a maximum

area of 10,000 sq. kms under RP subject to the condition that area in a single RP does not exceed 5000 sq. kms. A RP holder has preferential right to obtain PL(s) in the area concerned under Section 11 (1) of the Act.

PL is granted for undertaking operations for the purpose of exploring, locating or proving mineral deposit. A PL for any mineral or prescribed group of associated minerals is granted for a maximum period of 3 years. A PL can be renewed in such a manner that the total period for which a PL is granted does not exceed 5 years. In a State, a person can be granted a maximum area of 25 sq. kms in one or more PLs, but if the Central Government is of the opinion that in the interest of development of any mineral it is necessary to do so, the maximum area limit can be relaxed. A PL holder has preferential right to obtain ML in the area concerned under Section 11 (1) of the Act.

ML is granted for undertaking operations for winning any mineral. A ML for any mineral or prescribed group of associated minerals is granted for a minimum period of 20 years and a maximum period of 30 years. A ML can be renewed for periods not exceeding 20 years each. In a State, a person can be granted a maximum area of 10 sq. kms in one or more MLs, but if the Central Government is of the opinion that in the interest of development of any mineral it is necessary to do so, the maximum area limit can be relaxed.

The position regarding RP/PL/ML proposals disposed of by the Ministry of Mines during the year 2011-12 is given at [Annexures 5.1](#), [5.2](#) and [5.3](#).

Major initiatives taken by the Ministry for making the Mineral Concession System efficient and transparent.

The Ministry of Mines has constituted a Central Coordination-cum-Empowered Committee (CEC) under the Chairpersonship of Secretary (Mines) to monitor and minimize delays at various levels in grant of approvals for mineral concession applications. The CEC meets quarterly, and has so far held seven meetings - on 24th July, 2009, 22nd December, 2009, 18th June, 2010, 22nd December, 2010, 3rd May, 2011, 20th September, 2011 and 16th January, 2012, wherein important decisions aimed at minimizing delays in processing of mineral concession applications at various levels and bringing about efficiency and transparency in the overall mineral concession regime were taken.

One of the main decisions taken by the CEC in its first meeting that has reiterated in the subsequent meetings, was that a State level Coordination-cum-Empowered Committee (SEC) would be constituted in each State under the chairmanship of Chief Secretary or Additional Chief Secretary/Principal Secretary of the Mining/Industries Department with representation from all concerned Departments/institutions. As per the information received by the Ministry, all mineral-rich States, viz. Andhra Pradesh, Chhattisgarh, Gujarat, Goa, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Tamil Nadu have constituted their respective SECs.

Keeping in view the need for having more effective coordination among the Central Ministries/Departments and the State Governments for grant of mineral concessions as well as for dealing with various important matters relating to mineral development and regulation in the country, the CEC has been reconstituted as "Coordination-cum-Empowered Committee on Mineral Development and Regulation" on 20th October, 2011. The CEC, now, comprises senior officers of the Ministries of Mines, Environment and Forests, Home Affairs, Steel, Railways, Finance, Shipping, Fertilizers, Department of Atomic Energy, Directorate General of Civil Aviation (DGCA), Geological Survey of India (GSI), Indian Bureau of Mines (IBM). Representatives of State Governments are invited to the meetings of the CEC as special invitees. The Terms of Reference (TOR) of the CEC have also been broadened so as to bring

within its ambit other important matters viz. Sustainable Development Framework, Coordination/review of steps for prevention of illegal mining, issues arising out of the National Mineral Policy and legislation governing mineral development etc. Secretary (Mines) has, vide his D.O. letter dated 17th November, 2011, requested all Chief Secretaries, to review the composition and terms of reference of their respective SECs accordingly.

The Ministry of Mines has, in consultation with the State Governments, issued detailed guidelines on 24th June, 2009, in order to bring more clarity in processing the mineral concession proposals under the Mines and Minerals (Development & Regulation) Act, 1957 and Mineral Concession Rules, 1960. The guidelines also seek to ensure application of uniform criteria and transparent principles by the State Governments while examining and recommending proposals to the Central Government.

Based on an analysis of the cases falling under section 11 (5) of the Act, as well as the consultations with the State Governments in the meeting of the CEC held on 22nd December, 2009, the Ministry of Mines has framed a Policy on 'special reasons' to be adopted and applied by all State Governments while recommending a mineral concession proposal in favour of a later applicant under Section 11(5) of the Act. Guidelines in this regard have been issued to the State Governments on 9th February, 2010.

In the context of its responsibility to dispose of the mineral concession proposals within a reasonable time, the Ministry of Mines has issued guidelines on 29th July, 2010 regarding return of cases to the State Governments wherein there has been no response to the Ministry's queries for over six months. Besides, in order to ensure that the areas recommended by the State Governments for mineral concessions are clearly demarcated, the Ministry has issued comprehensive guidelines on 13th October, 2010 regarding submission of maps by the State Governments along with the proposals. These guidelines are available on the Ministry's website (<http://mines.gov.in>).

A Working Group under the Chairmanship of Additional Secretary (Mines) was set up in the Ministry of Mines on 20th January, 2011, for developing software for monitoring and expediting forest clearances in respect of mineral concession applications. The Working Group held a series of meetings and deliberations. As per the deliberations, the Ministry of Environment & Forests has redesigned and operationalised its software in January, 2012.

The Ministry has taken an initiative to process all mineral concession proposals within one month of their receipt in the Ministry by way of their preliminary scrutiny, in order to ensure that the documents/information submitted along with the proposals are as per the requirements under the provisions of the MMDR Act, 1957 and Rules and guidelines framed thereunder.

The Ministry of Mines is using internet services to bring about more accessibility and transparency in processing the mineral concession applications recommended by the State Governments. The website of the Ministry (www.mines.nic.in) provides all information on the current status of the mineral concession applications.

Government of Madhya Pradesh's Policy on 'Special Reasons'

The Government of Madhya Pradesh has, in its State Mineral Policy 2010, framed 'special reasons' for recommending a mineral concession proposal in favour of a later applicant in a non-notified area. The Ministry has taken due note of the 'special reasons' framed by the State Government, and written to them vide letter dated 20th October, 2011, for ensuring that the said 'special reasons' are applied in a uniform, consistent and transparent manner in all cases. The State Government has also been requested that while invoking section 11 (5), it should

clearly state under which clause of the 'special reasons' a proposal is covered. With regard to the section 11(5) cases presently pending with the State Government or with the Central Government, the State Government has been asked to inform in each case as to how the proposal is covered under the said 'Special Reasons' framed by the State Government and indicate the relevant clause of the 'Special Reasons' in each case separately.

The Ministry has, also, requested all other States on 20th October, 2011 to examine their own State Minerals Policies and incorporate therein suitable 'special reasons' specific to their respective States, for invoking the provisions of Section 11(5) of the MMDR Act.

The Ministry in the process of revising guidelines dated 9th February, 2010, on 'special reasons' to be invoked by the State Governments while recommending a later applicant in a non-notified area. The said guidelines have a component of 'Memorandum of Understanding (MoU) cases' as one of the 'special reasons'. In the light of Hon'ble Supreme Court's Order dated 13th September, 2010 in the matter of Sandur Manganese and Iron Ores Ltd. vs. the State of Karnataka and others, the Ministry is in dialogue with the Department of Legal Affairs on the question of retaining the MoU component in the guidelines.

Revisions Application Disposal

New Revision software for monitoring Revisions Applications filed under Section 30 of Mines and Mineral (Development and Regulations) MMDR Act, 1957 has been made fully operational. During the year (upto 15th December, 2011), 773 Applications challenging the State Governments orders were disposed of.



Playground on Reclaimed Mining Area

(Source IBM)