Mining Bill a futile exercise: surrender to some states

Provisions in the draft MMDR 2011 Bill directly violate the letter and the spirit of Hoda report, New Mineral Policy, 2008; Bill turns a blind eye to international best practices

By K R Ashish

In the current dispensation a miner is supposed to purchase the exploration report from GSI or MECIL at a cost. There is a detailed procedure for working out the cost which can range from 300% to 400% of the actual cost depending on the amount of work done and the mineral concerned. An exploration contract of GSI or MECIL is akin to an expedition and is carried out over a number of years deep in the hinterland in severe conditions and the report produced has much value.

It is the prospector’s data which the world over is the marketable product of the prospector from where the prospector recovers not only the expenses incurred by him in that particular operation but also makes a rather handsome profit. It is for this result in recoverable finds. Thus restricting auctions to auctions of expiration data rather than the ore body, the new dispensation now makes mining leases cheaper than in the earlier dispensation when the miner at least paid for the data at a cost. The auction becomes a travesty.

Since prospecting is a specialised activity the practice world over is for the prospector to sell his data to a mining company after declaring its finds. The public is deterred by the lack of precision, the quality of the data, the credibility of the data provider and the projected demand and supply of the mineral concerned.

Hence, as a logical corollary, when data is provided by the government the purchaser need not only the true price containing the surplus over and cost the auction is meant to tap into but also ensure the use of the data for exploration from that of the ore body to that of data collection. The auction process is thus deprived of the surplus. While this may not be of great significance in respect of most minerals in the short run, it does mean very substantial revenues in the case of techs, namely iron ore, bauxite and limestone. Since these are our only prospective ore bodies, the new dispensation deprives the government of funds which the Hoda Committee recommend be spent on the development of infrastructure including social infrastructures in the areas of mining intervention.

An interesting thing in respect of mining leases is the old shield given to the recommendation in para 1.47 (1) (ii) and (iii) of the Hoda report. The Committee recommends that once an area has been protected by GSI or any other governmental body and it is found that the area body is ready for development and mining it should be notified “within a time-bound frame” by GSI in GSI explored areas and by Indian Bureau of Mines (IBM) in other areas. Auctions should be restricted to notified such areas only and they should be carried out in consultation or association with IBM. Section 13 (4) leaves the entire matter vague with the words: “In such areas where prospecting has been conducted and sufficient evidence has been provided that mineralization has been established through a prospecting report and feasibility study.”

Here, three important issues arise: First, by ignoring the notification we give up transparency in respect of areas which are prospected and leave the choice of revealing the readiness of the ore body for auction to the state government. Keeping the notifying body separate from the auctioning body makes the process vulnerable to fronting.

Second, by giving up the association with IBM we leave the authenticity of the prospecting report in the hands of state government bodies which are either ill-equipped or easily susceptible to pressures and can easily overstate or understate the case. Third, by ignoring the “time-bound” obligation we allow the state to build on the ore bodies indefinitely.

Sections 17 & 18 are recommended two important changes in the mining statute to attract private investment and fast track prospecting of non-basinal minerals. First, to recognize prospecting as a standalone lease in a second, to facilitate seamless transfer from prospecting to mining if a successful strike is achieved. A prospector is not a miner. He sells his product which is the data relating to the land, to the miner. Transferability of a prospecting licence and automatic or seamless grant of mining licence to prospectors or their inheritors of interest, are essential to enable the prospector to enchant his product i.e. the data gathered by him in the course of his work. This is the only revenue stream of a prospector. Without smooth transition from a prospector’s licence to a mining licence (ML) and assured transferability of either, the question of “Junior” or prospecting companies showing any kind of interest in our resources, simply does not arise.

If a regime does not allow me to sell my product to whoever is willing to give me the best price I will not make any product in that regime.

The entire argument has been laid out comprehensively in paras 1.30 and 1.31 of the Hoda Committee report. The committee concluded that the main reason why prospecting companies have ignored India in spite of 100% FDI being allowed since 1991 is that the government does not assure an absolute right or any set of conditions. Transfer can happen in one of the following two ways: a series of transfers of the PI itself or a series of transfers of the prospecting or the prospector may obtain a mining licence in the state in which the PI, in that case it will be in return for a market-based compensation.

To the scope for going in for拍卖, one may ask the question of whether the transfer itself is being allowed, the rules must also provide that the mining rights or the transfer rights are not sold to the PL holder who has achieved a strike. Absence of transferability and the period and the mechanism of the draft Bill appears to be non-transparent. In the prospector is not going to be allowed to market his product itself or have his share in the profits. The plethora of cutout provisions which inter alia require the transfer of a concession to be obtained by the transferee from the state government which may or may not be willing to transfer the government share of the mineral is also a major concern. The government stand is that “the state government will agree to transfer its share only if the PL holder is willing to pay at a price which is in the consideration of the state government”.

Sections 43 & 54

There are other recommendations from the Hoda Committee recommendations which, though, not fundamental, have serious implications. Unless we get the sustainable development angle right the new dispensation will be a non-starter. In so far as non-basins are concerned, most prospecting is to be done outside the tributary forest areas and so sustainable development issue is not a primary issue from the mining point of view. It becomes an issue only when we confine mining of 64 major minerals with the mining of iron ore, bauxite and coal.

This is because more than 70% of these resources are located in the tributary and forested areas of Orissa, Chattisgarh and Madhya Pradesh. Even among basins it is only iron ore and bauxite which lie in the forest areas.

However, in the public mind as well as in the minds of the policy makers, there is a belief that all our resources are located in the forest areas. This is because all mining space is occupied by the money making bauxite iron ore. Hence, unless we deal with the issue of sustainable development equitably and squarely, the bauxite, namely iron ore and bauxite, will continue to hold the other 60 minerals in their place.

Chapter III of the Hoda report deals extensively with the issue of sustainable development and that of maintaining a balance between the needs of growth on the one hand and the needs of the environment and the project affected persons, or PAs. The report suggests that the environmental and social impact assessments based on international best practices be developed in that chapter in a manner of environmental protection as a key issue.

Section 17 (1) — the inexistence of transfer fees, the intrusive nature of the planning document, the need to seek permission for transfer from the state government and the uncertainty relating to the grant of such permission — are all retrogressive, a clear red flag to the investors telling them that we are still a socialist country interested in continuing with our licence system and the patronage which this system allows is more important to us than their money or their technology. Sections 16 and 18 have put paid to the Hoda Committee’s recommendation by compromising seamless and seamless transfers to the point where they stand virtually denied.

Conclusion

There are a number of other provisions in the draft Bill which directly violate both the letter and the spirit of Hoda report and by implication the letter and spirit of the New Mineral Policy. 2008. There is scant regard to principles or the need of the review of the PAs document have been approved by the state governments and are prepared with little or no understanding of the complex dynamic of the mining sector. The provisions of the Bill appear to be an attempt to protect the mining sector against indigenous populations. The Bill appears to go well beyond international best practices. It is at best a retrograde step for the mining sector in the bad growth story of this country.

It has been proved that opening up the mining sector will lead to a mining industry of at least $25 billion per annum within five years. This excludes the accretion benefit to the mining sector and to tertiary employment. In the end, it is a surrender to the desire of the state governments of Orissa, Chattisgarh, Karnataka, Rajasthan and Madhya Pradesh to claim grant concessions at will. Resource-rich India is in that too for now.

The notice is retired (on 21.03.2011), Application of Ministry of Mines, Government of India, dated 20.03.2011. Thank you.
Vizag steel or NMDC likely to get Bramhani

According to sources, the government wants to hand over the Bramhani Steel Factory to public sector units to avoid criticism from Opposition parties.

March 18: The state government is reportedly planning to hand over the Bramhani Steel Factory in Kadapa district to the Visakhapatnam Steel Plant or the National Mineral Development Corporation. According to sources, the government wants to hand over the factory to public sector units to avoid criticism from Opposition parties.

The government had allocated 14,000 acres to the steel plant with a capacity to produce 10 million tonnes of steel.

The former chief minister Y.S. Rajasekhar Reddy, had started the steel plant works near Ambavaram in the district on June 10, 2007. However, the factory operations stopped after his death.

The owner of Bramhani Steels, Mr Gali Janardhan Reddy, lost interest in the factory as his Obulapuram Mining Company started facing problems. He tried in vain to sell the factory to industrialists in the country and abroad. Mr Janardhan Reddy removed 600 experts and employees working in the factory and spent about ₹1,300 crore on development works relating to the factory.

As per the schedule, the factory was supposed to start production in December 2009. However, the construction work was not completed even after 15 months. People in the district were hopeful of getting employment in the factory.

A district minister had announced two months ago that the government would take over the factory.
Meet reveals mining at gun point

From Our Correspondent

TURA: Student and social organisations against mining in Garo Hills came together on Wednesday at Tura to discuss their future course of action given that illegal coal mining continues as fresh forested areas get destroyed by extraction of coal and limestone.

The day-long anti-mining programme was organised by Samrakshan Trust in coordination with the Centre for Science and Environment (CSE), one of the oldest environmental groups in the country.

Several leaders from various NGOs and student organisations spoke on the dangers of unscientific mining and others pointed out that certain groups, including those having links with militants have gone ahead with extraction of coal in vulnerable areas like the famous Sadolpara area that has been a major tourist attraction for its traditional and ethnic preservation. The illegal extraction of coal, allegedly by one senior militant leader, is threatening to permanently damage the environment of the area.

Participants at the anti-mining meet revealed that villagers are being forced to allow coal extraction at gunpoint and authorities are turning a blind eye to the situation. They revealed that such a scenario is not only prevalent at Sadolpara but has also spread to Balupara, Gamplegao and Selsella in West Garo Hills district.

One of the chief participants at the meet was the Deputy Director General for the Centre for Science and Environment (CSE) Chandra Bhusan, who warned that anarchy has set in as far as coal mining is concerned in the Garo Hills. He said it is time everyone came together to take the struggle forward.

“We need to make a road map as to where do we go from here,“ pointed out Bhusan.

Samrakshan Trust which has been in the forefront of the anti-mining issue in the Garo Hills, especially Balpokram National Park region, expressed satisfaction with the encouraging participation of the youth and its organisations in the anti-mining meet. Organisations like the GSU, FJKJP, TGCSU and others participated in the meet. (Contd on P-5)
Meet reveals...
(Contd from P-1) The meeting ended with a move to form a common platform against mining with the rest of the NGOs of the State in the coming weeks after a series of meetings and awareness programmes. The Garo Hills Anti Mining and Environmental Conservation Forum (GHAMECF) which has been at the forefront of the anti-mining issue in Balpakram and its adjoining areas has already pledged its support for the State platform to contain illegal and unscientific mining. Its members were at the forefront of the anti-mining discussion in Tura on Wednesday.
Present system of environmental assessment flawed, says Ramesh

Hyderabad, Mar 19

Admitting that the present system of preparing environmental assessment report is flawed, environment and forest minister Jairam Ramesh on Saturday said the ministry would now seek third-party opinion to evaluate the projects. He also informed that the ministry would soon map the wetland areas in the country to formulate a better definition of the same. The minister said the present system of preparing environmental assessment report is flawed and the ministry itself would take third-party opinion on environment in projects like coal, power and construction of ports.

“We have done the satellite mapping of all wetlands in the country. We have wetland atlas of every state which will be released by the end of June. So far we did not follow scientific approach of wetland management as in revenue record, wet land is recorded as wasteland. All these are legacies of the past. We will clean up the system,” the minister told reporters on the sidelines of Green Landscape Summit-2011 organised by CII. He also ridiculed the present system of preparing the environmental assessment report by the company itself which is proposing to set up a project.

Environmental impact assessment report is bit of a joke. I admit it publicly. In our system the person who is putting up the project will be preparing the assessment report. I have been very concerned about this. Supreme Court has also expressed its concern… We have blacklisted three consultants for producing fraudulent environmental assessment reports,” he said.

His aide government had issued notices to East Coast Energy and Nagarjunas Constructions, which are setting up projects in Srikakulam district and received their replies. “We had asked for certain information which has been provided. If the law is violated, there is no questioning of condoning the violations,” he said.

On Polavaram project in Andhra Pradesh, he said Chhattisgarh and Odisha government have to conduct public opinion and soon there will be an official level meeting among the state governments and ministry.”
Silver advances, gold edges up on global cues

Press Trust of India
Mumbai, March 19
Silver prices firmed up further on the bullion market on Saturday on sustained buying by speculators, robust industrial demand and firmness in global markets.

Gold also edged up on stray local buying.

Silver ready (.999 fineness) shot up by Rs 330 a kg and finished at Rs 53,860.

Standard gold (99.5 purity) moved up by Rs 5 and closed at Rs 20,790.

Pure gold (99.9 purity) also looked up by a similar margin to end at Rs 20,890 for 10 gm.

Chennai: Bar silver: Rs 53,410; retail silver: Rs 57.15; standard gold: Rs 20,895; retail ornament gold (22 carat a gm): Rs 1,943.
Monnet Ispat acquires coal mine in Indonesia

Mumbai, 19 March

Monnet Ispat and Energy has bought a 100-million tonne coal mine in Indonesia, sources say. The announcement is likely to be made on Monday.

An official close to the deal told Business Standard, “The company has been in serious talks for the past 5 months to buy a 100-million tonne thermal coal mine in Indonesia. The acquisition is now complete and the announcement will happen on Monday.”

The official said the company has been looking at 4-5 coal mines in Indonesia and zeroed in on this particular mine after careful inspection and due diligence. Company sources did not comment for the story.

Monnet Group’s power projects fall under its subsidiary, Monnet Power Company. The subsidiary is currently setting up a 1050-Mw power plant in Angul, and has captive coal mines to feed the plant. The plant is expected to be operational by the end of this year.

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the third quarter of 2012. The company is also setting up additional 2,000-Mw power projects by June, 2014. Of the 2,000 Mw, two super critical power projects with the rated capacity of 2 x 660 Mw, equal to 1320 Mw, would come up and would be fed with imported coal.

Another source said the company has fixed up plans to increase its power generation capacity and to complement the plan, has been on the look-out for coal mines. The company has two power plants in Chhattisgarh — in Raigarh and Raipur, each with a combined capacity of 250 Mw. Monnet plans to ramp up the capacity to 500 Mw in two years and would need more coal to run the plant. The official said, “Currently, our coal mine in Chhattisgarh is producing 1 million tonne of coal and there is a plan to increase it up to 1.5 million tonne. Our total coal requirement for the Chhattisgarh power plants is currently 2.5-3 million tonne and the shortfall is met from the open market.” He said after the capacity is increased to 500 Mw, the company would need 5 million tonne of coal per year.
Crushers leave villagers gasping for breath

With Hassanpur Near Alwar Enveloped In Dust, 20% Of Residents Suffer From Respiratory Diseases, TB

Abhalekha Ghosh | TNN

Tijara (Alwar): Residents of Hassanpur — a village around 60 km from Alwar in Rajasthan — have been at the receiving end, thanks to the rampant illegal mining of the Arrailis. Three crushers work 24x7 in two shifts, and 100 trucks come every day, villagers said. Breathing is a painful exercise amid the dusty surroundings.

According to Hassanpur sarpanch Manoharai, 20% of villagers, whose sole medical help is ANMs, suffer from respiratory diseases, and many of them have been diagnosed with tuberculosis. To make matters worse, the enveloping dust is also driving away prospective brides for the village youth.

Hassanpur is paying a heavy price for an unholy nexus between the erstwhile village panchayat and crusher owners.

"My predecessor issued an NOC without taking the villagers into confidence. We have written letters to the district administration, chief minister, mines and law ministers and several other officials. But nothing has happened," said the sarpanch. Usually, crushers are not installed in areas of human habitation and all mining areas are supposed to be regularly sprayed with water to control the dust. But, all such norms are flouted in Hassanpur.

Mahipal, a local villager, articulated their daily travails. "When we make rotis, a quarter of the atta is dust. We’ve severe breathing difficulties. When we wake up in the morning there is a layer of dust on our faces," he said.

Crusher managers claimed they have been conducting their business for long. Narendra Jain, owner of Bharatiya Grid, said the complaints are nothing but a diversionary tactic. He alleged that his employees had caught one of the villagers stealing diesel from his generators, incurring the wrath of locals.

District magistrate Ashutosh Pednekar said, he has "launched a massive drive against illegal mining". "There is a constant rotation of mining staff and border guards. We have stopped Rs 1.5 crore in fines, and 160 trucks have been seized. A lot of mining equipment has also been recovered. More than 20 FIRs have been lodged. Most of the crushers have NOCs from authorities concerned, and also have the relevant mining leases. I shall look into the issue of illegal mining in Lapin," Pednekar said.

The DM added that his office has received complaints from Hassanpur villagers about the crushers. Mining leases have been issued for 270 sites in Alwar.

Residents complain that when they wake up in the morning, there is a layer of dust on their faces.