No. 2/4/2012-M.IV (Part II)  
Government of India  
Ministry of Mines  
*****  
Room No. 304 ‘D’ Wing, Shastri Bhawan  
New Delhi, dated the 30th October, 2014

To

The Principal Secretary/ Secretary (Mines & Geology) of all State Governments  
(as per list attached)

Sub: Revision of Guidelines for submission of Mineral Concession proposals under  
Section 5(1) of the Mines and Minerals (Development & Regulation) Act, 1957.

Sir,

After the enunciation of the National Mineral Policy (NMP) in 2008, the Guidelines/Instructions regarding the processing of mineral concessions were reviewed to harmonize them with the basic principles laid down in the NMP, 2008. Accordingly, guidelines were issued vide Ministry of Mines’ letter No.7/60/2006-M.IV dated the 24.06.2009 in supersession of all previous guidelines. This was supplemented by the following additional guidelines drawing the attention of the States to revised checklists and certificates to be attached with proposals for grant of mineral concession.

(i) No.7/106/2009-M.IV dated 09/02/2010;  
(ii) No. 7/59/2010-M.IV dated 29/07/2010;  
(iii) No. 7/76/2009-M.IV dated 13/10/2010;  
(iv) No. 2/4/2012-M.IV dated 11.02.2013

3. In view of observations made by the Supreme Court in its judgments in various cases viz. Samatha, Sandur, 2G, Coal Block Allocation Case etc., suggestions received from State Governments from time to time, and with a view to consolidate all guidelines issued on the subject, it has been decided to bring out comprehensive guidelines. Accordingly, in supersession of all previous instructions/guidelines in this regard, the following guidelines are issued for processing of mineral concession cases under the Mines and Minerals (Development & Regulation) Act, 1957 and Rules made thereunder.

4. These guidelines come into force with immediate effect. State Governments are requested to process all proposals in accordance with these guidelines to facilitate expeditious disposal of mineral concession applications. The Central Government will process all cases (including those presently under its consideration) in accordance with these guidelines.
5. In respect of proposals which are under process and where any query has been raised by the Central Government, the State Government while furnishing information for fulfillment of query shall also submit checklist as prescribed in these guidelines.

6. Status of the mineral concession proposals and authenticity of the prior approval by the Central Government may be cross checked with the status displayed in the website of Ministry of Mines, Government of India. Discrepancy, if any, may be brought to the notice of the Central Government for carrying out rectification. The Letter of Intent should be issued by the State Government only after verification of the prior approval and a copy of the Letter of Intent may be endorsed to the Central Government, IBM and GSI.

7. State Governments are advised to adopt these guidelines for processing of mineral concession applications in case of minerals other than those specified in the First Schedule to the MMDR Act, 1957, except minerals defined under section 3(e) of the MMDR Act, 1957.

Yours faithfully,

(Prithul Kumar)
Director
011-23070260
Email: prithul.kumar@nic.in

Copy to:
1. The Controller General, IBM, Indira Bhawan, Civil Lines, Nagpur
2. The Director General, GSI, 27, J.L. Nehru Road, Kolkata
3. DGMs of all States

Copy for information to:
Secretary (Mines), Additional Secretary (Mines), Economic Advisor (Mines), All Joint Secretaries, PS to Minister of Mines, PS to Minister of State of Mines, All Directors/Deputy Secretaries in Ministry of Mines.

Copy to NIC (Ministry of Mines) with a request to upload these Guidelines on the website of Ministry of Mines

(Prithul Kumar)
Director
Guidelines for processing of Mineral Concession proposals under the Mines and Minerals (Development & Regulation) Act, 1957

1 Preamble

1.1 The following guidelines had been issued by Ministry of Mines regarding processing of applications for grant of mineral concessions:

   (i) No.7/60/2006-M.IV dated 24/06/2009 [It had superseded all previous guidelines];
   (ii) No.7/106/2009-M.IV dated 09/02/2010;
   (iii) No.7/59/2010-M.IV dated 29/07/2010;
   (iv) No.7/76/2009-M.IV dated 13/10/2010; and

1.2 Subsequent to issue of these guidelines, some important judgments / opinion have been pronounced by the Supreme Court on allocation of natural resources, which have a direct relevance to grant of mineral concessions. These are:

   (i) Judgment dated 02/02/2012 in WP (Civil) 423/2010 and WP (Civil) 10/2011 [commonly known as 2G Judgment];
   (ii) Supreme Court’s opinion dated 27/09/2012 on President of India reference dated 12/04/2012;
   (iv) Judgment dated 25/08/2014 in a W.P. (Crl.) No. 120/2012 in the matter of Manohar Lal Sharma Vs. The Principal Secretary & Ors. [Allocation of coal blocks Judgment]

1.3 These pronouncements require the State action to be unbiased, without favoritism or nepotism, and to be in pursuit of promotion of healthy competition and equitable treatment; and that it should conform to the norms which are rational, informed with reasons and guided by public interest. It has also been held by the Apex Court that if a policy or law is patently unfair to the extent that it falls foul of the fairness requirement of Article 14 of the Constitution, the Court would not hesitate in striking it down.

1.4 The details of the judicial pronouncements need to be understood by all concerned. For quick reference, certain portions of these judicial pronouncements have been extracted separately and annexed to these guidelines in Annexure-I (page 10-12). These are only for the purpose of emphasizing the issue so as to ensure that the Government action is fair, reasonable, non-discriminatory, transparent, non-capricious, unbiased, without favouritism or nepotism, in pursuit of promotion of healthy competition and equitable treatment. If these objectives are not met, then such action by the Government (State or Central) can be called in question as being violative of the letter and intent of the Article 14 of the Constitution.
1.5 The guidelines referred to in para 1.1 above have been reviewed and consolidated. These guidelines issued now would be in supersession of all guidelines issued including those cited at para 1.1.

2 Strict compliance of eligibility

2.1 Section 5(1) of Mines and Minerals (Development and Regulation) Act, 1957 [hereinafter referred as ‘Act’]

2.1.1 Section 5(1) of Act provides:

“5. (1) A State Government shall not grant a reconnaissance permit, prospecting licence or mining lease to any person unless such person –

(a) is an Indian national, or a company as defined in sub-section (1) of Section 3 of the Companies Act, 1956; and

(b) satisfies such conditions as may be prescribed:

Provided that in respect of any mineral specified in the First Schedule, no reconnaissance permit, prospecting licence or mining lease shall be granted except with the previous approval of the Central Government.

Explanation - For the purposes of this sub-section, a person shall be deemed to be an Indian national, -

(a) in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and

(b) in the case of an individual, only if he is a citizen of India.”

2.1.2 It is important that the concerned authorities both in the State Government and the Government of India ensure that an applicant satisfies the provision of Section 5(1) of the Act.

2.2 Establishment of Mineralization

2.2.1 Section 5(2) of the Act deals with mineralization. This Section is extracted below:

“5. (2) No mining lease shall be granted by the State Government unless it is satisfied that-

(a) there is evidence to show that the area for which the lease is applied for has been prospected earlier or the existence of mineral contents therein has been established otherwise than by means of prospecting such area; and

(b) there is a mining plan duly approved by the Central Government or by the State Government, in respect of such category of mines as may be specified by the Central Government, for the development of mineral deposits in the area concerned.”

2.2.2 To carry out mining operations in the interest of (i) safe and scientific mining, (ii) conservation of minerals, and (iii) protection of environment, a scientific and optimal mining plan can be prepared only if mineralization is established as 111 (Proven Mineral
Reserves), 121 (Probable Mineral Reserves), 122 (Probable Mineral Reserves) categories as per UNFC 1997. The Prospecting Report should be prepared in accordance with field guidelines on UNFC 1997 as prescribed under Mineral Conservation and Development Rules, 1988 (MCDR, 1988). The State Government should ensure that the Prospecting Report [which is filed with the State Government under Rule 16 of Mineral Concession Rules, 1960 (MCR, 1960)] has established reserves as per UNFC 1997, while recommending a mining lease.

2.2.3 Cases where prospecting has been carried out:

Self-certification by the applicant that he has filed PL data with GSI and IBM as provided in Rule 66 of MCR 1960 and Rule 8 of MCDR, 1988 respectively would be necessary. Similarly, self-certification with regard to filing of data with GSI and IBM in respect of reconnaissance permit (RP), with reference to Rule 7 of MCR, 1960 and Rule 3E of MCDR, 1988 shall be followed.

2.2.4 Cases where prospecting has not been done:

The Act provides application for mining lease even where prospecting has not been carried out. Such cases would require that “the existence of mineral contents therein has been established otherwise than by means of prospecting ….” [sub-section (a) of Section 5(2) of the Act]. However, it is necessary that cases which have not been prospected should satisfy the establishment of mineralization in terms of UNFC 1997 as per Para 2.2.2 above.

3 Section 6 of the Act

3.1 Section 6(1)(b) of the Act for relaxation of area for PL & ML beyond prescribed limits

3.1.1 Proviso to Section 6(1)(b) of the Act is extracted below for ready reference:

“Provided that if the Central Government is of opinion that in the interests of the development of any mineral, it is necessary so to do, it may, for reasons to be recorded by it, in writing, permit any person to acquire one or more prospecting licences or mining leases covering an area in excess of the aforesaid total area;”

3.1.2 Relaxation of an area is sought by the State Government generally with respect to grant of mineral concessions for minerals like gold, diamond, other precious stones, limestone and gypsum for the following reasons:

(i) large areas have to be worked out for PL / ML as concentration of gold and precious stones is low;

(ii) need of a larger area for limestone keeping in view the captive requirements and capacity of the cement unit(s);

(iii) need of a larger area for gypsum as its deposits are very shallow, etc.

The Central Government normally considers such reasons to be adequate to relax the maximum area norms for grant of PL / ML.
3.1.3 The Central Government will consider cases for relaxation of the area limits for PL/ML provided the State Government furnish the following for additional resources required for captive use of minerals as applicable [Annexure – II (page 13)]:

(i) reserves available in the proposed area;
(ii) reserves in the area held by the applicant;
(iii) reserves in the area where lease has not been executed for want of statutory approvals / clearances;
(iv) plant capacity including additional capacity in pipeline; and
(v) balance economic life of plant.

3.1.4 In any proposal for relaxation of maximum area involving more than one piece of land (which are not compact or contiguous), each piece of such land must independently comply with provision of minimum area limits prescribed under Rule 22D of MCR 1960. State Governments should furnish reasons for such relaxation while recommending the proposal.

4 Section 7 & 8 of the Act – Periods of mineral concessions

The State Government should clearly specify the period recommended for mineral concession in the proposal.

5 Section 11 of the Act – Preferential right of certain persons

5.1 Section 11(1)

5.1.1 The State Government to ensure that the following conditions laid down in Section 11(1) of the Act, Rule 7(1)(iii) / 16 of MCR, 1960 and Rule 3E / 8 of MCDR 1988 should be complied with:

(i) the applicant has undertaken Reconnaissance Operations or Prospecting Operations to establish mineralization in such area as per categories of the UNFC 1997;
(ii) the applicant has not committed breach of the terms and conditions of the Reconnaissance Permit or the Prospecting License;
(iii) the applicant has not become ineligible under the provisions of the Act;
(iv) the applicant has applied for grant of PL or ML within three months after expiry of RP or PL or within such further period as extended by the State Government; and
(v) State Government has obtained a self-certification from the applicant that he has filed RP / PL report(s) with the GSI and/or IBM, as the case may be.

5.2 Section 11(2) of the Act

5.2.1 In the interest of principles of fairness, transparency and non-arbitrariness that flow from the doctrine of equality under Article 14 of the Constitution as observed by the Supreme Court referred in Para 1.3 above, in cases other than seamless cases under Section 11(1) of the Act, the normal or default condition should always be of prior notification of all
the areas [whether virgin under section 11(2) of the Act or previously held under section 11(4) of the Act] available for mineral concession.

5.2.2 If State Governments do not notify such area due to strong and compelling reasons, then such reasons should be clearly recorded. The Central Government will consider the proposal only if strong and compelling reasons for not notifying the area are indicated by the State Government which are demonstrated to exist. Otherwise, the proposal will be returned.

5.2.3 Invoking ‘Special Reason(s)’ under Section 11(5) of the Act for grant of a mineral concession should be in public interest and should be derived from, sub-serve and not *de hors* the Act and Rules made thereunder. Otherwise, the proposal will be returned.

5.2.4 State Governments should invite applications for grant of mineral concessions by notification in the Official Gazette and the State Government’s website for wide publicity. Notification, *inter-alia*, should indicate the date from which applications can be submitted, which should be a date 30 days or more from the date of notification. The due date for submitting applications should be indicated and should be reasonable to ensure that the period for accepting applications is not kept indefinite.

5.2.5 Depending on the availability of exploration data and mineralization, an area should be notified for inviting applications for grant of PL or RP. An area should be notified for inviting applications for grant of ML only if mineralization in terms of UNFC 1997 (refer to Para 2.2.2) by way of prospecting or otherwise has been established. The extent of mineralization should be mentioned in the notification.

5.2.6 Notified re-grant area under Section 11 (4) read with Section 11 (3) of the Act and Rule 59 of MCR, 1960

5.2.6.1 Rule 59(1) of MCR, 1960 provides that specific areas as delineated will not be available for re-grant unless availability for grant is entered in the concerned register for mineral concessions and the availability of the area for grant is notified in the Official Gazette. Provisions under Rule 59(1) can be relaxed by the Central Government under Rule 59(2) of MCR, 1960.

The Supreme Court Judgment dated 13/09/2010 in Civil Appeal No. 7944/2010 in the matter of Sandur Manganese & Iron Ores Ltd Vs. State of Karnataka (Para 41) has held that the purpose of Rule 59(1) requiring notification of availability of such areas for grant is to ensure that mineral concessions in such areas are not given by the State Governments to favour persons of their choice. In view of the judgment of the Supreme Court, not notifying such areas in the Official Gazette is not as per the requirement of Rule 59(1) of MCR, 1960, and is open to rejection and legal challenge, unless relaxation is accorded by the Central Government under Rule 59(2) of MCR, 1960.

5.2.6.2 The State Government shall seek relaxation under Rule 59(2) of MCR, 1960 from the Central Government for not notifying the area available for re-grant only in exceptional circumstances by providing specific reason(s).
5.3 **Section 11(3) of the Act**

5.3.1 Section 11(3) of the Act mentions criteria for selection from amongst applications received on the same day (actual or deemed). The criteria under 11(3) of the Act have been elucidated as given at Annexure III (page 14-15).

5.3.2 These criteria are only illustrative and State Governments may use all or any such criterion or any other criteria in accordance with section 11(3) of the Act.

5.3.3 State Governments shall prescribe criteria in the notification inviting application on the basis of which the proposal would be considered. Selection of an applicant shall be based on objective criteria in a rational manner in terms of criteria mentioned in Section 11(3) of the Act.

5.3.4 Recommendations of State Governments for prior approval of the Central Government for grant of mineral concessions shall include a comparative chart of evaluation of all the applicants on the criteria enumerated in Section 11(3) of the Act along with the orders passed by State Governments for recommending a particular applicant and reasons for not recommending the remaining applicants.

5.3.5 The process of scrutinizing applications, and conducting hearing as provided under Rules 5(1), 12(1) and 26(1) of MCR, 1960 for RP, PL and ML respectively for applications being processed under the criteria stated in Section 11(3) of the Act may be completed within a reasonable period preferably 3 months.

5.4 **No Sub-division of an area after notification**

5.4.1 An area notified for grant of a mineral concession should not be sub-divided either by the State Government or by the applicant after notification at the stage of consideration of the application. State Governments are advised to divide areas into manageable parcels before notifying for grant / re-grant of mineral concessions.

5.4.2 For areas not notified (refer to Para 5.2.1), the Central Government will not consider proposals for accommodating multiple applicants by sub-division of area.

6 **Disposal of application for grant of mineral concessions**

6.1 Rejection of an application only on the ground of the applicant not being present during hearing is not appropriate. Provisions under Rules 5(1), 12(1) and 26(1) of MCR, 1960 for RP, PL and ML respectively is to give an opportunity to the applicant to be heard. These provisions give an opportunity to an applicant to support his case. Non-appearance in hearing does not cast an onus on the applicant or make his case weak.

6.2 The State Government shall specifically ask for the documents or records on the basis of which a decision will be made as provided for under Rules 5(2), 12(1B) and 26(3) of MCR, 1960 for RP, PL and ML respectively. In case the applicant has not attended the
hearing conducted by the State Government, the decision should be based on the documents available on record with the application.

6.3 Proposals will not be considered in case time schedules specified under Rule 63A MCR, 1960 have not been adhered to or reasons for delay furnished in writing by the State Government are not adequate and satisfactory.

6.4 The State Government may ensure the following while recommending cases for mineral concessions to the Central Government under Section 5(1) of the Act:

i) Give reasons for not adhering to the timeline prescribed for disposal of application for mineral concessions as per the third proviso to Rule 63A of MCR, 1960.

ii) Give reasonable time preferably one month to the applicants to respond or be present in the hearing.

iii) Keep record of the intimation(s)/ notice(s) served to the applicants for hearing held by the competent authority.

iv) Ensure hearing has been conducted by a competent authority. Written submission may be encouraged and kept on record.

v) Prepare speaking orders after the completion of the hearing process, recording therein the decision to recommend a particular applicant and giving the reason for selecting him in preference to other applicants within the parameters of Section 11(3) of the Act.

vi) Communicate the speaking order to all concerned stakeholders and publish it on the web-site.

vii) Attach a copy of the speaking order along with the proposal forwarded to the Central Government for obtaining prior approval, indicating whether it has been communicated to all the concerned stakeholders along with the date of communication.

7 Section 17A of the Act – Reservation of Areas for Central / State PSUs

7.1 Section 17A of the Act contain provisions for reservation by the Central and State Governments, of any area not already held under any prospecting licence or mining lease, with a view to conserving any mineral.

7.2 In cases of proposals made by State Governments for reservation of an area for PL or ML for undertaking prospecting or mining operations through a Central / State Government company or corporation, the State Government shall clearly state the intention for such reservation with a view to conserving the mineral.

7.3 A State Government can recommend grant of ML / PL on an area reserved under Section 17A of the Act in favour of a Public Sector Undertaking (PSU) to a Joint Venture (JV) between such PSU and a private party in the interest of development and conservation of minerals. This shall be subject to the condition that:
(a) the JV partner should be selected through a transparent and competition based procedure;
(b) under no circumstances should the control or majority ownership of the JV be transferred to the private party.

8 Rules 7A (1), 15(1) and 31(1) of the MCR, 1960: Signing of RP / PL / ML

8.1 The RP/PL or ML shall be signed within a period of 3 or 6 months of the date of the communication of the order for grant of RP/PL or ML, or such further period as the State Government may allow in this behalf as per provisions of Rule 7A(1) / 15(1) or 31(1) of the MCR, 1960 respectively.

8.2 After prior approval of the Central Government is obtained for grant of a mining lease, State Governments should issue grant order / Letter of Intent to the applicant. This should be done without any delay, preferably within a period of one month of receipt of prior approval from the Central Government. Delays in execution of mineral concessions agreement should be avoided.

9 Submission of maps

9.1 While recommending a mineral concession for prior approval of the Central Government, the State Governments shall ensure that the procedure outlined in Annexure IV (page 16-17) with regard to submission of maps for the area for which mineral concession is sought has been followed and a certificate in this regard shall be enclosed along with the proposal seeking prior approval of the Central Government.

10 Communication of prior approvals

10.1 Reference made by the Central Government to State Governments seeking inputs on deficiencies, and disposal of the proposal will be endorsed to the applicant. Communication of prior approvals for RP / PL / ML will be given to GSI and IBM. State Governments should endorse a copy of the RP / PL/ ML executed to the GSI and the IBM.

11 Further Conditions under Rule 27(3) of MCR, 1960

11.1 If an applicant is recommended for grant of a mineral concession on the basis of special reason(s), then State Governments while recommending the proposal to the Central Government for prior approval should also seek prior approval of the Central Government for imposing such further condition(s) as per Rule 27(3) of MCR, 1960.

11.2 For grant of mining lease in Scheduled Areas, Governments of Andhra Pradesh and Telangana should ensure that the observations made by the Supreme Court in the case of Samatha vs State of Andhra Pradesh (1997)-8SCC-191 along with the provisions of the respective State Government’s Scheduled Areas rules/regulations, if any, are complied with while recommending such cases for prior approval of the Central Government. Other State
Governments are advised to keep in view these observations alongwith the provisions of the respective State Government’s Scheduled Areas rules/regulations, if any, while recommending such cases for prior approval of the Central Government.

12 Return of deficient proposals

12.1 With respect to proposals returned by the Central Government to State Governments for seeking information/clarification/comments, it is noticed that despite lapse of many months, no response is received in many cases. Cases where response has not been received from the concerned State Governments within a period of six months from the date information/clarification/comments were sought will be returned. Only on receiving requisite information/documents from the State Governments, the proposal will be examined.

13 For grant of mining lease in respect of small isolated mineral deposits, excluding fragmented portions of larger ones, preference may be given to applicant eligible as per Section 5(1) of the Act and belonging to that Sub-Division/District. Such small isolated mineral deposit within a defined area should:

(i) not be less than the minimum area limits as specified under Rule 22D of MCR 1960; and

(ii) be within the limits prescribed EIA notification 2006, as amended from time to time, for which environmental clearance is not required.

14 State Governments shall fill all entries and submit the Checklist as per Annexure V (page 18 - 22) for RP/PL/ML, as the case may be.

15 State Governments while seeking prior approval of the Central Government for grant of mineral concessions for minerals specified in the ‘First Schedule’ to the Act should ensure that these Guidelines are strictly followed in letter and spirit.
Some important judgments / opinion of the Supreme Court on allocation of natural resources

1. President of India reference dated 12th April, 2012 on Supreme Court judgment dated 02.02.2012 in WP (Civil) 423/2010 and WP (Civil) 10/2011 [commonly known as 2G Judgment]

On the issues arising out of the Supreme Court in its 2G judgment dated 02.02.2012, in exercise of powers under Article 143 (1) of the Constitution of India, the President of India made a reference to the Supreme Court of India on 12th April, 2012 for consideration and report on, inter alia, (i) whether the only permissible method for disposal of all natural resources across all sectors and in all circumstances is by the conduct of auctions?; (ii) whether a broad proposition of law that only the route of auctions can be resorted to for disposal of natural resources does not run contrary to several judgments of the Supreme Court including those of Larger Benches?; (iii) whether the enunciation of a broad principle, even though expressed as a matter of constitutional law, does not really amount to formulation of a policy and has the effect of unsettling policy decisions formulated and approaches taken by various successive governments over the years for valid considerations, including lack of public resources and the need to resort to innovative and different approaches for the development of various sectors of the economy?

2. Supreme Court’s opinion dated 27th September, 2014 on President of India reference dated 12th April, 2012

2.1 The Supreme Court in its opinion on the Presidential Reference, inter alia, observed that:

“the action of the State, whether it relates to distribution of largesse, grant of contracts, or allotment of land, is to be tested on the touchstone of Article 14 of the Constitution”. (para 105)

2.2 The scope of testing of executive action against Article 14 has been explained as follows:

“The action has to be fair, reasonable, non-discriminatory, transparent, non-capricious, unbiased, without favouritism or nepotism, in pursuit of promotion of healthy competition and equitable treatment. It should conform to the norms which are rational, informed with reasons and guided by public interest, etc. All these principles are inherent in the fundamental conception of Article 14. This is the mandate of Article 14 of the Constitution of India”. (para 105)
2.3 The Supreme Court has quoted an earlier decision in Sachidanand Pandey after noticing Kasturi Lal’s case:

“123. ...
State owned or public-owned property is not to be dealt with at the absolute discretion of the executive. Certain precepts and principles have to be observed. Public interest is the paramount consideration. One of the methods of securing the public interest, when it is considered necessary to dispose of a property, is to sell the property by public auction or by inviting tenders. Though that is the ordinary rule, it is not an invariable rule. There may be situations where there are compelling reasons necessitating departure from the rule but then the reasons for the departure must be rational and should not be suggestive of discrimination. Appearance of public justice is as important as doing justice. Nothing should be done which gives an appearance of bias, jobbery or nepotism.”

2.4 The Supreme Court has quoted several earlier instances where open invitations to tender or participate in a project etc., have not been made, but have nevertheless been upheld when challenged. In all such cases, the Court has opined that:

“the ultimate test is only that of fairness of the decision making process and compliance with Article 14 of the Constitution”. (para 126)

2.5 The Supreme Court has observed that:

“149. Regard being had to the aforesaid precepts, we have opined that auction as a mode cannot be conferred the status of a constitutional principle. Alienation of natural resources is a policy decision, and the means adopted for the same are thus, executive prerogatives. However, when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit maximizing private entrepreneurs, adoption of means other than those that are competitive and maximize revenue may be arbitrary and face the wrath of Article 14 of the Constitution. Hence, rather than prescribing or proscribing a method, we believe, a judicial scrutiny of methods of disposal of natural resources should depend on the facts and circumstances of each case, in consonance with the principles which we have culled out above. Failing which, the Court, in exercise of power of judicial review, shall term the executive action as arbitrary, unfair, unreasonable and capricious due to its antimony with Article 14 of the Constitution.”

In Civil Appeal No. 7944/2010, the Apex Court in its judgment dated 13.09.2010, inter alia, held that:

25) In view of the specific parliamentary declaration as discussed and explained by this Court in various decisions, there is no question of the State having any power to frame a policy de hors the MMDR Act and the Rules.

4 Judgment dated 25.08.2014 in a W.P. (Crl.) No. 120/2012 in the matter of Manohar Lal Sharma Vs. The Principal Secretary & Ors. [Allocation of coal blocks Judgment]

The Supreme Court in its judgment dated 25.08.2014 observed that:

71. ...Obviously, therefore, such allocation has to meet the twin constitutional tests, one, the distribution of natural resources that vest in the State is to subserve the common good and, two, the allocation is not violative of Article 14.

(emphasis added)

*****
ANNEXURE II
(REFER PARA 3.1.3 AT PAGE 4)

Proforma for evaluation of cases seeking relaxation under Section 6(1)(b) of the MMDR Act, 1957

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Minerals available in the existing lease(s) (in MT)</th>
<th>Details of areas for which applicant has been selected but concession has not been signed as on date</th>
<th>Requirement of minerals for balance economic life of the existing as well as proposed Plant (in MT) including enhancement in capacity of existing plant</th>
<th>Mineral: Excess/shortage (in MT) vis-à-vis requirement</th>
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<tbody>
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<td></td>
<td>Reserves</td>
<td>Resources</td>
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</tbody>
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PS - All reserves and resources shall be in terms of categories of UNFC 1997

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ANNEXURE III
(REFER PARA 5.3.1 AT PAGE 6)

Illustrative sub-criteria under 11(3) of the MMDR Act, 1957

<table>
<thead>
<tr>
<th>11(3)</th>
<th>Sub-Section Criteria</th>
<th>Illustrative Sub criteria</th>
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</table>
| a     | Any special knowledge of, or experience in, reconnaissance operations, prospecting operations or mining operations, as the case may be, possessed by the applicant. | Special knowledge in terms of technology in the field of:
<p>|       |                                                                                      | (i) mining;                                                                                   | (ii) prospecting; and                                     | (iii) reconnaissance.                                                                                     |
|       |                                                                                      | Experience in terms of period, area and type of minerals and technology in the field of:        |                                                                                                           |                                                                                                           |
|       |                                                                                      | (i) mining;                                                                                   | (ii) prospecting; and                                     | (iii) reconnaissance.                                                                                     |
|       |                                                                                      | Special knowledge and experience in the field of:                                             |                                                                                                           |                                                                                                           |
|       |                                                                                      | (i) sustainable mining;                                                                      |                                                                                                           |                                                                                                           |
|       |                                                                                      | (ii) progressive mine closure;                                                                |                                                                                                           |                                                                                                           |
|       |                                                                                      | (iii) zero waste mining and utilisation of the entire run-of-mines;                           |                                                                                                           |                                                                                                           |
|       |                                                                                      | (iv) relief and rehabilitation for project affected persons; and                              |                                                                                                           |                                                                                                           |
|       |                                                                                      | (v) estimation of resources in terms of United Nations Framework Classification (UNFC) / Joint Ore Reserves Committee (JORC) etc.                                                                                                                                      |                                                                                                           |                                                                                                           |
|       |                                                                                      | Any other relevant criteria.                                                                 |                                                                                                           |                                                                                                           |
| b     | The financial resources of the applicant.                                           | (i) Net worth;                                                                               | (ii) Net profit;                                          | (iii) Turn-over; and                                                                                     |
|       |                                                                                      |                                                                                               | (iv) Liquid securities and credit line available.                                                      |                                                                                                           |
|       |                                                                                      |                                                                                               | (v) any other relevant criteria.                                                                        |                                                                                                           |
| c     | The nature and quality of the technical staff                                        | Technical Professional available in the field in terms of                                    |                                                                                                           |                                                                                                           |</p>
<table>
<thead>
<tr>
<th>employed or to be employed by the applicant.</th>
<th>man-year experience:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(i) Mining Engineer;</td>
</tr>
<tr>
<td></td>
<td>(ii) Geologist;</td>
</tr>
<tr>
<td></td>
<td>(iii) Environmental Engineer;</td>
</tr>
<tr>
<td></td>
<td>(iv) Sociologists; and</td>
</tr>
<tr>
<td></td>
<td>(v) Metallurgist / Chemical Engineer</td>
</tr>
<tr>
<td></td>
<td>(vi) any other relevant category.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>d</th>
<th>The investment which the applicant proposes to make in the mines and in the industry based on the minerals.</th>
<th>(i) Investment in Financial Term;</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(ii) Investment in Scheduled Areas;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(iii) Investment in Backward Areas;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(iv) Investment in Left Wing Extremism Areas; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(v) Generation of Employment opportunities.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(vi) any other relevant criteria.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>e</th>
<th>Such other matters as may be prescribed.</th>
<th>(i) end use of the mineral by the applicant for</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>a. captive use of plants; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b. capacity enhancement of existing plants.</td>
</tr>
</tbody>
</table>

**Note:**

(i) State Governments may assign weightage as deemed necessary, and add / subtract / edit the sub-criteria in accordance with provisions of Section 11(3) of the MMDR Act, 1957.

(ii) As decided at (i) above, State Governments should indicate the criteria in the notification inviting applications for grant of mineral concession, so that everyone is aware of how the State Government will proceed to make the selection.

*****
ANNEXURE IV
(REFER PARA 9.1 AT PAGE 8)

Guidelines pertaining to Maps

All State Governments are required to submit map as per the details given below while seeking prior approval of the Central Government under Section 5(1) of the MMDR Act, 1957 for grant of mineral concession.

I Part A: For Reconnaissance Permit (RP) / Prospecting Licence (PL) / Mining Lease (ML)

(i) The Differential Global Positioning System (DGPS) coordinates for the area proposed should be indicated by the applicant.

(ii) The DGPS points should be with reference to the Ground Control Point Library (GCPL: Survey of India)/ National Land Records Modernization Programme (NLRMP) points, if they exist.

(iii) The map should indicate at least three permanent ground control points/ reference points viz. crossing of roads, religious place, river, village etc.

(iv) The map should indicate the survey/ Khasara number including part numbers and the area in respect of each number/ part number which are in the cadastral scale. (not applicable in case of RP)

Part B: For Reconnaissance Permit (RP)

(i) For RP covering more than one village, the map should be drawn in the scale of 1:25000 or 1:50000. If the proposed area for RP is more than 25 sq. km. the map can be in the scale of 1:250,000.

Part C: For Prospecting Licence (PL)

(i) For PLs covering more than one village, the map should be drawn in the scale of 1:25000 or 1:50,000. For PLs covering one village, the map should be in the scale of 1:4000 (or cadastral scale applicable in the State).

Part D: For Mining Lease (ML)

(i) Mining Lease maps must be in cadastral scale.

II. If the area is a Forest compartment, the map should give the names of the villages whose boundaries adjoining the forest area from all sides and also the distances.

III. In case of a Forest compartment, locations of other mineral concessions (RP/PL/ML) already granted or recommended in that compartment must be shown on the map.

IV. Details of adjacent areas for which other application are pending or recommended as well as the existing PLs/MLs/RPs in the adjacent areas should be shown in the map.
V. In all cases where the area is not compact and contiguous, adequate details regarding the area left out in between areas applied for should be given to enable proper appreciation of the reasons why noncontiguous area has been proposed for grant of mineral concession.

VI. In case of proposals containing recommendations for grant of mineral concessions of different areas to different applicants, each recommendation should be supported by separate maps for each applicant showing the applied and the recommended area of the applicant.

VII. The map submitted along a mineral concession proposal should clearly show the applied area and the recommended area, duly colour-coded/ indexed.

VIII. The map should contain the signature, name, designation, date and seal of the authorized signatory of the State Government which is forwarding the proposal.

*****
### ANNEXURE V
(REFER PARA 14 AT PAGE 9)

#### Part A. Checklist for Reconnaissance Permit (RP) / Prospecting Licence (PL) / Mining Leases (ML)

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Items</th>
<th>Response of State Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Whether the proposal is for RP or PL or ML</td>
<td>RP/ PL / ML</td>
</tr>
<tr>
<td>2.</td>
<td>Correspondence address of the applicant</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>E-mail address of the applicant</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Date of filing application</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Mineral(s) applied for (name of associated minerals to be specified)</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Whether the recommended applicant satisfies the provisions of Section 5(1) of the MMDR Act, 1957</td>
<td>Yes / No</td>
</tr>
<tr>
<td>7.</td>
<td>(i) Whether the recommended area is reserved under Section 17 / 17A of the MMDR Act, 1957</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>(ii) Whether the recommendation is in favour of a Central / State Public Sector Undertaking?</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>(iii) Whether any proposal for reservation under Section 17 / 17A of the MMDR Act, 1957 on the recommended area is pending at:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Central Government</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>(b) State Government</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>If so, give details of the reserved area / reservation application in a separate sheet.</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Period for which RP/ PL/ ML:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a) applied for by the applicant</td>
<td></td>
</tr>
<tr>
<td></td>
<td>b) recommended by the State Government</td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td>(i) <strong>Section 11(1) of the Act</strong></td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>Whether the application is for Seamless transition [Section 11(1) of the Act]</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Whether the applicant himself has conducted reconnaissance / prospecting operations in the area applied for?</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>Whether the applicant has enclosed a self-certification that he has filed reconnaissance / prospecting report with the State Government, GSI and IBM as per provisions of MCR 1960 / MCDR 1988.</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>Whether the applicant has fulfilled conditions laid down under Section 11(1)(a) to (d) of the Act?</td>
<td>Yes / No</td>
</tr>
</tbody>
</table>
Number and date of the letter of Ministry of Mines of prior approval under Section 5(1) of the Act.  

<table>
<thead>
<tr>
<th>Whether the State Government has accorded relaxation of the time limit prescribed under proviso (d) of Section 11(1) of the Act? (a copy of the speaking order passed by the State Government in this regard to be enclosed)</th>
<th>Yes / No</th>
</tr>
</thead>
</table>

**(ii) Section 11(2) of the Act – Non-notified cases**

<table>
<thead>
<tr>
<th>Whether the application is for Fresh Grant: Non-notified [Section 11(2) of the Act] (Strong and compelling reasons for non-notifying the area to be enclosed in separate sheet)</th>
<th>Yes / No</th>
</tr>
</thead>
</table>

**(iii) Section 11(2) of the Act – Notified cases**

<table>
<thead>
<tr>
<th>Whether the application is for Fresh Grant: Notified [Section 11(2)+11(3) of the Act]; (copy of notification to be enclosed)</th>
<th>Yes / No</th>
</tr>
</thead>
</table>

In case of notified area, whether the State Government has indicated in the notification the parameters, as per provision of Section 11(3) of the MMDR Act, 1957 and reasons likely to be considered for selecting applicants.  

<table>
<thead>
<tr>
<th>Whether comparative statement of the merits in terms of parameters laid down in Section 11(3) duly notified is attached in a separate sheet.</th>
<th>Yes / No</th>
</tr>
</thead>
</table>

**(iv) Section 11(4) of the Act**

<table>
<thead>
<tr>
<th>Whether the application is for Re-grant case [Section 11(4) of the Act]; (copy of notification to be enclosed)</th>
<th>Yes / No</th>
</tr>
</thead>
</table>

In case of notified area, whether the State Government has indicated in the notification the parameters, as per provision of Section 11(3) of the MMDR Act, 1957 and reasons likely to be considered for selecting applicants.  

<table>
<thead>
<tr>
<th>Whether comparative statement of the merits in terms of parameters laid down in Section 11(3) duly notified is attached in a separate sheet.</th>
<th>Yes / No</th>
</tr>
</thead>
</table>

**(v) Section 11(5) of the Act**

<table>
<thead>
<tr>
<th>Whether the application is for later applicant case [Section 11(5) of the Act] (Strong and compelling reasons for non-notifying the area to be enclosed in separate sheet)</th>
<th>Yes / No</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Whether evaluation criteria adopted by the State Government on terms of ‘special reasons’ in giving preference for grant of mineral concession is enclosed in a separate sheet?</th>
<th>Yes / No</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Whether the application is for: (i) relaxation under Section 6(1)(b) of the Act* (Reasons and justification in support of the request should be enclosed in separate sheet)</th>
<th>Required / Not Required</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>(ii) imposition of Condition under Rule 7(3) for RP / 14(3) for PL / Rule 27(3) for ML of MCR 1960 (Reasons and justification in support of the request should be</th>
<th>Required / Not Required</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>
| (iii) relaxation under Rule 59(2) of MCR 1960  
(Reasons and justification in support of the request should be enclosed in separate sheet) | Required / Not Required |
| (iv) inclusion of mineral in the existing mineral concession  
(Reasons and justification in support of the request should be enclosed in separate sheet) | Required / Not Required |
| (v) relaxation under Section 31 of the MMDR Act, 1957  
(Reasons and justification in support of the request should be enclosed in separate sheet) | Required / Not Required |
| 11. Whether the subject area falls in the Schedule area of the State.  
If so, whether the proposal is compliant to relevant Central legislations, State laws/ rules/ regulations, Court orders including Samatha case etc.? | Schedule / Non-Schedule area  
Yes / No |
| 12. Details of mineralization in terms categories under UNFC, 1997  
indicating reserves and resources, and grade of ore in the recommended area.**  
(documents indicating how the calculation of reserves was done to be enclosed) |  
| 13. (a) Area recommended, clear demarcation with Survey Nos. / Khasra Nos. as well as longitude and latitude on Survey of India toposheet/ maps to be indicated and sent in triplicate (details of recommended area to be given with geo-referenced coordinates) |  
(b) Total area held by the applicant under RP / PL / ML (excluding the instant proposal) in the State.  
(A copy of application submitted by the applicant in Form prescribed in the MCR, 1960 to be enclosed.) |  
(c) In case the applicant is a subsidiary company or a holding company then the total area held by such company / recommended for grant of RP / PL / ML in favour of its holding company in its name or in the name of other subsidiary companies under mineral concession(s) in that State. |  
(d) Whether the area is compact and contiguous.  
If not, reasons for invoking the proviso to Section 6(1)(c) of the MMDR Act, 1957.  
(reasons recorded by the State Government to be attached in a separate sheet with the proposal) | Yes / No  
| (e) Whether non-compact and non-contiguous areas so recommended individually satisfy the provisions of Rule 22D of MCR, 1960.** | Yes / No |
| 14. Where application could not be disposed of within the time limit prescribed in Rule 63A of MCR, 1960, reasons for delay in disposal may be given along with the chronological development in a separate sheet. | Delayed / Not Delayed  
| 15. (i) Whether the documents or records on the basis of which decision to grant concession will be taken had been specifically asked from all the applicants, in terms of the provisions of Rule 4 / 9 / 22 of MCR, 1960 for RP / PL / ML, as the case may be. | Yes / No  
(ii) Whether all the applicants have been given a reasonable opportunity of being heard under Rule 5 / 12 / 26 of MCR, 1960 for RP / PL / ML, as the case may be, after giving proper notice. | Yes / No |
(a brief note on the procedure followed and details of hearing to be given in a separate sheet).

(iii) Whether a proper record of the intimations/ notice served on the applicants for the hearing has been kept? Yes / No

(iv) Whether sufficient time for the applicants has been given to respond or be present in the meeting? Yes / No

(v) Whether hearing has been undertaken by a competent authority? Yes / No

(written submission to be encouraged, and kept on record)

(vi) Whether speaking orders on the outcome of hearing have been passed after the completion of the hearing process and all parties intimated of the reasons for recommending the party. (copy of the speaking order and intimation to parties to be attached with the proposal) Yes / No

(vii) Whether the speaking order has been communicated to all the applicants and put on public domain including website etc. A copy of the speaking order to be attached alongwith the proposal. Yes / No

16. Whether any Revision Application / Writ Petition is pending in respect of whole or part of the area covered by this proposal. Yes / No

If so, give details in a separate sheet. ________

17. (i) Whether mineral concession is being recommended in favour of a unit for captive use. Yes / No

If yes, then complete details of annual capacity, requirement, financial worthiness and technical strength of the applicant should be furnished in a separate sheet. ________

(ii) Whether mineral concession is being recommended in favour of applicant for other than captive use. Yes / No

If yes, then complete details of the financial and technical strength of the applicant should be furnished in a separate sheet. ________

18. Total number of pages in with the proposal. Attested enclosures to be given in separate sheet. ________

* Not applicable in case of RP
** Not applicable in case of RP and PL

** Part B. Additional Check List for Reconnaissance Permit (RP) only **

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Items</th>
<th>Response of State Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>If RP is recommended on an area where GSI has conducted regional exploration or an RP has been conducted earlier whether:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) any PL application have been filed on the area, and are pending with State Government;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(ii) whether the recommended applicant for RP proposes to use better technology (give details);</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(iii) whether RP is being sought for an unexplored mineral</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes / No</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Schedule of relinquishment of area, year-wise details under Rule 7(1)(i) of MCR, 1960. (to be given in separate sheet)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes / No</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Minimum expenditure commitment-year-wise details under Rule</td>
<td></td>
</tr>
</tbody>
</table>
7(1)(ii) of MCR, 1960.
(to be given in separate sheet)

4. Specific physical targets of activities envisaged under Rule 7(1)(ii) of MCR, 1960.
(to be given in separate sheet)

Certified that:

i) the information given above is correct and is based on official records;

ii) the selection and recommendation in favour of the applicant has been made in a fair, transparent and non-arbitrary manner based on equality of opportunities to all applicants; and the proposal is complete in all respect and in compliance with the provisions of the MMDR Act, 1957 and Rules and guidelines framed thereunder.

Signature__________________________
(with official stamp)
Name______________________________
Designation________________________

Date:
Place:

(The check-list and the declaration/certificate shall be signed by an officer not below the rank of a Joint Secretary to the State Government)

(Incomplete/ unsigned checklist would not be considered)