No.7/4/2012-M.VI
Government of India
Ministry of Mines

New Delhi, the 21st March 2013

To
Chief Secretary,
All State Governments and UTs Administration

Sir,

A request was received from the Government of Jharkhand, vide letter dated 8.8.2012, seeking prior approval of the Central Government for imposing a special condition under Rule 27(3) of Mineral Concession Rules (MCR), 1960 restricting sale or export of iron ore on all such iron ore mining leases which were granted for specific captive end use.

2. The Ministry of Mines, vide letter of even number dated 16th September 2012, had issued instructions for imposing a special condition under Rule 27(3) of MCR, 1960 restricting sale or export of iron ore for all mining leases proposed to be executed or renewed where the allotment has been done by giving preference by invoking special reasons under Section 11(5) of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 or by invoking Rule 35 of MCR, 1960 read with Section 11(3) of the MMDR Act, 1957.

3. The Central Government has received a reference from the Government of Jharkhand, vide letter dated 13.12.2012, seeking clarification whether the special condition under Rule 27(3) of MCR, 1960 restricting sale or export of iron ore on leases already allotted for captive use can be applied retrospectively.

4. Preferential Allocation of mineral concessions as per MMDR Act 1957 and MCR 1960 is as indicated below:

i) Notified Areas:

In case an area has been notified for grant of mineral concessions, it is done as per Section 11(2) and 11(4) of the MMDR Act, 1957 by the State Government which recommends/selects an application for grant of Reconnaissance Permit (RP), Prospecting Licence (PL) or Mining Lease (ML) in preference to other applicants, after taking into consideration the provisions specified in Section 11(3) of the MMDR Act, 1957 and/or the 'end use of mineral' as per Rule 35 of MCR, 1960.

ii) Non-notified Areas:

In case of non-notified areas, the State Government can, as per Section 11(5) of the MMDR Act, 1957, recommend/select an application for grant of RP, PL or ML to a later applicant, whose application was received later in preference to an applicant whose application was received earlier for any special reason to be recorded, ignoring the first-in-time principle.
After carefully examining the matter, the following clarification is issued superseding the position stated in the Ministry of Mines’ letter of even number dated 19.9.2012.

(i) The State Government while executing the lease deed with the applicant who has been selected for

(a) grant of mineral concession in a notified area after considering the matters specified in Section 11(3) of MMDR Act, 1957 and/or the ‘end use of mineral’ as per Rule 35 of MCR, 1960;

OR

(b) grant of mineral concession in a non-notified area by giving preference to a later applicant for special reasons under Section 11(5) of MMDR Act 1957, should explicitly mention in the lease deed the basis of the preference, as an additional condition(s) under Rule 27(3) of MCR, 1960 which will be binding on the lessee under Section 4(1) of the MMDR Act, 1957.

(ii) Imposition of the special condition(s) under Rule 27(3) of MCR, 1960 in the lease deed should be exercised at the time of grant of a fresh lease or should be exercised at the time of renewal of the mining lease.

Yours faithfully,

(Rokhum Lalremruata)
Director

Copy to:
1. Directors of Geology and Mining, all State Governments and UTs
2. Under Secretary (Mines IV), Ministry of Mines – with the directions to mention explicitly the basis of allocation in the letter granting prior approval for grant of mineral concessions, which have been recommended and forwarded by the State Governments on the basis of considering the matters specified in Section 11(3) and/or Rule 35 of MCR, 1960 in case of notified areas; and on the basis of preference given to a later applicant for special reasons under Section 11(5) of MMDR Act 1957 in the case of non-notified areas.
3. Controller General, Indian Bureau of Mines, Nagpur

Copy for information to:
1. PS to Hon’ble Minister for Mines
2. PS to Secretary (Mines)
3. PPS to Special Secretary (Mines)
4. Joint Secretary (AK) / Joint Secretary (DS) / Joint Secretary (NK) / EA
5. SO (Mines VI) Section with the direction to upload the Order on the website of the Ministry of Mines.