

UPDATED MEMORANDUM OF ACTION TAKEN
ON THE
FIRST INTERIM REPORT
OF
JUSTICE M.B. SHAH COMMISSION OF INQUIRY FOR
ILLEGAL MINING OF IRON ORE AND MANGANESE

MINISTRY OF MINES

‘UPDATED MEMORANDUM OF ACTION TAKEN’ ON THE ‘FIRST INTERIM REPORT’ OF JUSTICE M.B. SHAH COMMISSION OF INQUIRY FOR ILLEGAL MINING OF IRON AND MANGANESE ORES

1. The Government of India set up Shri Justice M. B. Shah Commission of Inquiry for Illegal Mining of Iron Ore and Manganese (Commission) vide Notification No. S.O. 2817(E) dated 22nd November, 2010, with the following terms of reference:

- (i) to inquire into and determine the nature and extent of mining and trade and transportation, done illegally or without lawful authority, of iron ore and manganese ore, and the losses therefrom; and to identify, as far as possible, the persons, firms, companies and others that are engaged in such mining, trade and transportation of iron ore and manganese ore, done illegally or without lawful authority;
- (ii) to inquire into and determine the extent to which the management, regulatory and monitoring systems have failed to deter, prevent, detect and punish offences relating to mining, storage, transportation, trade and export of such ore, done illegally or without lawful authority, and the persons responsible for the same;
- (iii) to inquire into the tampering of official records, including records relating to land and boundaries, to facilitate illegal mining and to identify, as far as possible, the persons responsible for such tampering; and
- (iv) to inquire into the overall impact of such mining, trade, transportation and export, done illegally or without lawful authority, in terms of destruction of forest wealth, damage to the environment, prejudice to livelihood and other rights of tribal people, forest dwellers and other persons in the mined areas, and the financial losses caused to the Central Government and State Governments.

The Commission was also required to:

- (i) recommend remedial measures to prevent such mining, trade, transportation and export done illegally or without lawful authority,
- (ii) submit its report to the Central Government as soon as possible but not later than eighteen months from the date of its first sitting, and
- (iii) submit interim reports to the Central Government before the expiry of the said period on any of the matters specified in the notification and recommend specific steps that may be required to be taken urgently to curb the menace of such illegal mining, trade and transportation.

2. The Commission submitted its ‘First Interim Report’ on 14th July, 2011 which along with ‘Memorandum of Action Taken’ was laid in the Lok Sabha on 20th December, 2011 and in the Rajya Sabha on 30th April, 2012.

3. An ‘Updated Memorandum of Action Taken’ on the ‘First Interim Report’ of the Commission has been prepared taking into account the comments received from the Ministry of Coal, Department of Commerce, Department of Legal Affairs, Ministry of Environment and Forests, Ministry of Shipping, Ministry of Steel, and State Governments of Andhra Pradesh, Gujarat and, Odisha.

4. The updated Action Taken Report in respect of the recommendations of the Commission is given below:

S. No.	Gist of recommendations of Shri Justice M.B. Shah Commission of Inquiry	Gist of action taken
1	The Commission has recommended that Rule 24A(1) of the Mineral Concession	Ministry of Mines The Ministry of Mines agrees to amend Rule

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	Rules, 1960 may be amended to include two new sub-clauses (b) and (c) on making it mandatory for an applicant to simultaneously apply for Forest clearance and State Pollution Control Board clearance with concerned authorities, at the time of applying for renewal of mining lease with the State Government	<p>24A(1) of the Mineral Concession Rules (MCR), 1960 to provide that applications for renewal of a mining lease shall be made to the State Government at least twenty four months before the date of expiry of the lease, to bring it in conformity with similar provisions for Forest Clearance.</p> <p>As regards clearance by the State Pollution Control Boards (SPCBs), the SPCBs give consent to establish and consent to operate under the Water Act, 1974 and Air Act, 1981. These Acts have provisions for deemed consent in case the application is not decided by SPCB within four months.</p> <p>The concerned SPCB will take a view on renewal applications only if the mining lease has been renewed by the State Government.</p>
2	The Commission has recommended that with respect to deemed extension of mining leases under Rule 24A(6) of Mineral Concession Rules, 1960, the period of deemed extension in case of failure of State Government to dispose the application for renewal of mining lease, the period of such deemed extension should be limited to a period of only one year or till the State Government passes any orders in the matter.	<p>Ministry of Mines</p> <p>The Ministry of Mines agrees to amend Rule 24A(6) of the Mineral Concession Rules, 1960 to provide that the maximum period permissible for deemed extension of mining lease be kept at two years with prospective effect.</p>
3	The Commission has held that several instances of illegal mining have come to the notice of various Committees. In order to improve regulation for proper boundary demarcation and prevent mining beyond lease area or mining without lease, the Commission has recommended making it mandatory for Central and State Government officers authorized under Section 24 of the MMDR Act, 1957, to verify whether the boundary pillars are properly structured and are easily visible, and ensure that reports are properly recorded, by adding a new clause in sub-section (1) of section 24 of the MMDR Act, 1957.	<p>Ministry of Mines</p> <p>MMDR Act, 1957 has specific provisions in Section 24(1)(b) empowering Central and State Government officers to conduct surveys and take measurements. This includes proper maintenance of boundary marks and pillars for clear demarcation of the leased areas. Therefore, further amendments to Section 24(1) are not required.</p>

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4	<p>To ensure that the IBM performs its duties assiduously, the Commission has recommended further amendment in the Guidelines No. 2 of 2010 dated 06.04.2010 issued by the IBM, by adding clause 10 as follows:</p> <p>“(10) It should be mandatory for the concerned officer/s to visit the mine/s at least once a month, verify whether the boundary pillars are properly affixed and are easily visible, and the report/s thereof should be kept on record.</p> <p>AND</p> <p>If the report is incorrect, the explanation of the concerned officer who visited last should be sought for and if not found satisfactory, departmental action should be taken.”</p>	<p>Ministry of Mines</p> <p>Rule 27(1)(g) of MCR 1960 and the covenants for the lessee/lessees in item 2 of PART VII of Form K (model lease deed) include provision for fixing of boundary marks and pillars as follows:</p> <p>“The lessee shall at his own expense erect and at all times maintain and keep in good repair boundary marks and pillars necessary to indicate the demarcation shown in the plan annexed to the lease. Such marks and pillars shall be sufficiently clear of the shrubs and other obstructions as to allow easy identification”.</p> <p>IBM, in its circular dated 18.11.2011, has advised inspecting officers as well as Regional Controller of Mines/ Divisional Controller of Mines incharge that they will be held responsible for failure to check boundary pillars and will be liable for disciplinary action.</p>
5	<p>The Commission has observed that the boundary pillars need to be properly spaced out and visible, and for this purpose has recommended that distance between two pillars should not be more than 20 meters and that the pillars should be made of concrete. To ensure this, the Commission has recommended amendment in Circular No. 2 of 2010 dated 06.04.2010 issued by the IBM by adding clause 9 as under:</p> <p>“(9) <i>The distance between two pillars should not be more than 20 mtrs. and that the pillars should be of concrete</i>”.</p>	<p>Considering the limited staff strength in IBM, the Ministry has directed IBM that, henceforth, the frequency of inspection of fully mechanized mines, as categorized under the MMDR Act, 1957 and rules framed thereunder, shall be at least twice in a financial year.</p> <p>IBM has issued a circular (Addendum) No.2/10 dated 23.9.2011 to regulate boundary pillars which, <i>inter alia</i>, includes the following conditions:</p> <ul style="list-style-type: none"> (i) The maximum distance between any two successive pillars should not be more than 100 meters; (ii) All corner pillars should be pyramid shaped with base of 1 meter and height of 2 meter and should be placed 1 meter above the ground and 1 meter below the ground; (iii) Distance and bearing to the forward and backward pillars and latitudes and longitudes should be marked on all the corner pillars. <p>The Government agrees with the recommendation of the Commission for greater visibility of boundary pillars and their proper spacing. Form K (model lease deed under Rule 31 of MCR 1960) is being amended for making provisions for erecting</p>

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		and maintaining boundary marks and pillars with the spacing of not more than 50 meters.
6	The Commission has recommended amendment in Rule 27 of the Mineral Concession Rules, 1960, by adding a new clause to allow State Government to determine mining lease of such persons convicted of illegal mining and also amend Rule 26 of Mineral Concession Rules, 1960, by adding a new provision for the State Government to reject application for renewal of mining lease by a person convicted of illegal mining.	Ministry of Mines Amendments to Rule 2, Rule 26 & Rule 27 of MCR, 1960 were notified in the Gazette vide G.S.R. 593(E) dated 26.7.2012, as recommended by the Commission.
7	<p>The Shah Commission has pointed out that for controlling illegal mining and for recovery of royalty, it is necessary to have effective functioning check posts and computerized weigh bridges, since the Commission feels it is not proper to rely only on the reporting by mine owner or the transporters. Recognizing the importance of framing rules under Section 23 C of MMDR Act, 1957, it has desired systemic solutions such as:</p> <p>(a) that the Central Government may frame model rules for State to adopt.</p> <p>(b) establishment of computerized weigh bridges at exit point for mining clusters or within radius of 15 to 20 Kms from mining areas.</p> <p>(c) developing online system to regulate transportation of minerals using GPS and RFID devices.</p> <p>(d) modernization of check posts</p> <p>(e) encouraging maintenance of roads by lease holders, and</p> <p>(f) increased use of Information Technology by the State Directorates of Mining and Geology.</p>	Ministry of Mines A Central Coordination-cum-Empowered Committee (CCEC) in the Ministry of Mines with representatives from major mineral producing States and concerned Ministries/Departments of the Central Government regularly monitors and reviews the action taken by the State Governments in its quarterly meeting. The CCEC has held eight meetings (20.9.2011, 16.1.2012, 27.3.2012, 28.6.2012, 21.9.2012, 15.1.2013, 14.5.2013 and 10.9.2013) since receiving the First Interim Report of the Commission to consider matters relating to coordination of activities to combat illegal mining. State Governments have been advised to take appropriate measures to control illegal mining. CCEC regularly monitors action taken by the State Governments to control illegal mining as per Section 23C of MMDR Act. Twenty States have framed rules under Section 23C of the MMDR Act, 1957 to streamline systems for controlling illegal mining effectively.
8	The Commission in its interim report has stated that the main cause and incentive for illegal mining of iron and manganese ore is the huge profit possible due to exports. For this reason, the Commission has recommended a total ban on export	Department of Commerce Export of minerals, including iron ore and manganese ore is guided by Export-Import Policy. To ensure supply of iron ore to domestic iron and steel industry at affordable price, the Government has increased the export duty on iron ore from 20%

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	of iron ore and manganese ore.	ad valorem to 30% ad valorem on all grades of iron ore (except pellets) with effect from 30.12.2011. EXIM Policy could be revisited if the assessment of reserves and domestic demand warrant such action. Therefore, the recommendation has not been agreed to.
