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Indian Mining & Exploration Updates

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Indranil Bhattacharjee

Reforming The Mining Sector In India: An Analysis Of The Latest Amendments To The MMDR Act

In a major push for mining reforms in India, the Parliament recently enacted the Mines & Minerals (Development & Regulation) Amendment Act, 2021 (Amendment Act).

The President of India gave his assent to the Amendment Act on 28 March 2021 and all the provisions of the Amendment Act (other than Section 3(v)(i)) were notified on the same date by the Central Government.

The Amendment Act seeks to amend the Mines & Minerals (Development & Regulation) Act, 1957 (Principal Act) with a view to meet the following broad objectives:

- Fully harness the potential of the mineral sector;
- Increase employment and investment in the mining sector including coal;
- Increase the revenue to the States;
- Increase production and time bound operationalization of mines;
- Maintain continuity in mining operations after change of lessee
- Increase the pace of exploration and auction of mineral resources;

Resolve long pending issues that have slowed the growth of the sector.

Some of the significant changes introduced in the Amendment Act have been discussed below.

Involvement of the Private Sector

Section 4(1) of the Principal Act has been amended with the objective of allowing private entities (notified by the Central Government) with enhanced technology to undertake mineral exploration activities.

In Parliament, the Hon'ble Union Minister of Mines, Government of India underscored the need for opening up mineral exploration to private entities. He highlighted that the mining potential in India was vast and the mining sector was the second largest employment generator after agriculture. However, India still continues to remain significantly under-explored when compared to nations with similar potential like South Africa and Australia. With this amendment, therefore, the Central Government aims to tap the technology and expertise available with the private sector.

In the above context, the amendment to Section 9C of the Principal Act is also extremely significant by way of which the National Mineral Exploration Trust (NMET) has been designated as an autonomous body. It is worth recollecting that the NMET was established for the purposes of funding regional and detailed exploration of minerals. In the Amendment Act, a new sub-section (5) to Section 9C has been introduced, which enables the notified private entities to seek funding from the NMET.

Termination of the mining lease

Prior to the Amendment Act, in terms of Section 4A(4) of the Principal Act, if a mining lease holder failed to undertake mining operations for a period of 2 (two) years or having commenced mining operations, discontinued the same for a period of 2 (two) years, the mining lease would automatically lapse. However, it was open for the State Government to order continuation of the lease where it was not possible for the mining lease holder to undertake or continue mining operations for reasons beyond the control of the lease holder. It was also open for the State Government to revive a lapsed mining lease provided an application was made by the mining lease holder within 6 (six) months from the date of its lapse.

The Amendment Act has replaced the expression "mining operations" in Section 4A(4) of the Principal Act with the words "production" and "dispatch". Accordingly, the termination of the lease in Section 4A(4) will have to be considered from the standpoint of whether the holder of the lease has undertaken or continued "production" and "dispatch". The definitions of "production" and "dispatch" have also been inserted in the Amendment Act. "Production" has been defined to mean the winning or raising of mineral within the leased area for the purpose of processing or dispatch. Further, "dispatch" has been defined as the removal of minerals or mineral products from the leased area and includes the consumption of minerals and mineral products within such leased area.

The Amendment Act also envisages an extension for a period of one year in cases where the holder of a mining lease fails to undertake production and dispatch for a period of two years either after the execution of the lease or having discontinued production and dispatch, for a period of two years after having commenced the same. It has also been clarified that this extension can only be granted once during the entire period of the lease.

Significantly, the Amendment Act does not allow for a revival of the mining lease after it has lapsed. Therefore, the mining lease holder will necessarily be required to make an application to the State Government before the lapse of the mining lease.

Doing away with end-use restrictions for captive mines

The Amendment Act has allowed existing captive mines (including captive coal mines) to sell up to 50% of the minerals produced after meeting the requirement of the linked end use plants. The captive mine holder will be required to pay an "additional" sum, to be calculated in accordance with the newly inserted Sixth Schedule.

The Statement of Objects and Reasons of the Mines and Minerals (Development & Regulation) Amendment Bill, 2021 (Bill) stated that this amendment would "facilitate increase in production and supply of minerals, ensure economies of scale in mineral production, stabilize prices of ore in the market and bring additional revenue to the States…"

Transfer of statutory clearances

Section 8B in the Principal Act has been substituted by way of the Amendment Act and it has been clarified that all valid rights, approvals, clearances, licences, etc. granted to a lessee in respect of a mine (other than those granted under the provisions of the Atomic Energy Act, 1962) shall continue to be valid even after expiry or termination of the lease and such rights, approvals, clearances, licences, etc. shall be transferred

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to, and shall vest (subject to the relevant conditions) in the successful bidder of the mining lease selected through auction.

It has also been clarified that it shall be lawful for the new lessee to continue mining operations on the land, till the expiry or termination of the mining lease granted to it, in which mining operations were being carried out by the previous lessee.

This amendment ensures continuity of mining operations, even with the change of the lessee and helps to avoid the repetitive process of obtaining clearances again for the same mine. The industry seems to have received this amendment very well.

The general view is that a tremendous amount of time was spent to seek the same permissions/approvals afresh and this amendment would facilitate the early commencement of the mining operations. At the time of discussions on the Bill in Parliament, it was highlighted that about 904 mines will expire in the next 10 years and if the new lessee is compelled to obtain statutory clearances all over again, it would cause unnecessary disruption.

Legacy cases under Sections 10A(2)(b) and (2) (c)

In Section 10A(2)(b) of the Principal Act, the following provisos have been inserted:

"Provided that for the cases covered under this clause including the pending cases, the right to obtain a prospecting licence followed by a mining lease or a mining lease, as the case may be, shall lapse on the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021:

Provided further that the holder of a reconnaissance permit or prospecting licence whose rights lapsed under the first proviso, shall be reimbursed the expenditure incurred towards reconnaissance or prospecting operations in such manner as may be prescribed by the Central Government."

Further, after Section 10A(2)(c) of the Principal Act, the following clause has been inserted:

"(d) in cases where right to obtain licence or lease has lapsed under, clauses (b) and (c), such areas shall be put up for auction as per the provisions of this Act:"

This is a very significant and contentious amendment. The Federation of Indian Mineral Industries (FIMI), a representative body, had also written to the Central Government in

2020 opposing the amendment to Section 10A, on the ground that it would slow down investment in the sector and result in multiple litigations. However, the Central Government went ahead with this amendment with the objective to close the pending cases of non-auctioned concession holders, which had not resulted in the grant of mining leases despite passage of a considerable time of more than 5 (five) years.

For cases under Section 10A(2)(b), the Amendment Act provides that the Government shall reimburse the expenditure incurred towards reconnaissance permit or prospecting operations in cases where the rights lapsed. However, the industry does not seem to be satisfied. The view is that the reimbursement sum may not be enough since the expenditure incurred by the mining lease holders is likely to be much more.

The Amendment Act has also introduced Section 13(2)(u), to empower the Government to frame rules to prescribe the manner for reimbursement of the expenditure incurred by lease holders towards reconnaissance or prospecting operations.

For cases under 10A(2)(c), unlike Section 10A (2)(b), a specific provision for lapsing of the rights has not been made. However, this is presumably because in terms of Section 10A (2)(c) of the Principal Act read with Rule 8 of the Mineral Concession Rules, 2016, the mining lease was required to be executed and registered on or before 11 January 2017 failing which the right for a grant of a mining lease stood forfeited. For this reason, the Government may argue that cases under Section 10A (2)(c) had already lapsed on 11 January 2017 and therefore, there was no need for a specific provision similar to Section 10A(2)(b) in the Amendment Act.

However, it remains to be seen how cases where applicants had already filed writ petitions against lapsing of rights and were granted relief by the respective courts on the ground that the delay in execution of the mining lease was beyond their control and/or in fact, attributable to the Government will be dealt with going forward.

Transfer of mineral concessions

A new proviso to Section 12A(2)(b) in the Principal Act has been inserted, in terms of which, the transfer of a mining lease would no longer entail the payment of any charges. However, it has also been clarified that the charges already paid for transfer shall not be refunded.

Further, Section 12A(6) in the Principal Act, which provided that the transfer of mineral concessions shall be allowed only for concessions which were granted through auction, has also been removed. The objective appears to be to remove the restrictions on transfer of mineral concessions for non-auctioned mines to attract fresh investment and new technology in the sector.

Comment

The Government has been seeking to push these reforms since early 2020. While most of the amendments have been welcomed as being progressive, some of them have been mired in controversy from the very beginning.

In particular, the issue of legacy cases falling under Sections 10A(2)(b) and 2(c) has been a subject of extensive debate. At one point, even the NitiAayog wrote to the Hon'ble Prime Minister's Office opposing this amendment on the ground that it could invite litigation and disrupt existing investments. However, the Statement of Objects and Reasons of the Bill seeks to justify this amendment on the ground that the existence of such cases is anachronistic and antagonistic to the auction regime. A challenge to some of these amendments is likely.

by Gaurav Juneja and Aayush Jain

Khaitan & Co

How does the mining industry look at issues around "Just Transitions"?

- Mining is an important sector of the Indian economy and forms the backbone of several other industries as well. A mining project triggers developmental works in the mining areas and the vicinity but is also criticised for adverse impacts on local ecology and the communities involved.

- The mining industry is increasingly being asked to ensure that the transition in the lives of mining-affected people and the local environment is 'just'. In this context, the concept of sustainable mining is also being pushed by many but there are not many active takers.

The mining companies note that the process to ensure social and environmental justice is cumbersome as it involves a series of steps which sometimes can seem to be impossible and thus called for more active help from the authorities.

The mining industry is often under criticism for the toll its activities take on the communities living close to mines and the environment. But the mining sector, which has been integral to the Indian government's plan to revive the economy, has its own share of concerns when it comes to ensuring that the transition of the mining areas is "just" for all the stakeholders involved.

In fact, amendments in the country's mining laws have been at the top of the Indian government's agenda over the past few years and it has brought a series of changes to ensure ease of doing business for the mining industry. The government has repeatedly emphasised that the mining sector, especially coal, is crucial in India's plan of doubling the size of its economy and becoming a five trillion dollar economy by 2025.

One of the mining industry's major complaints has been that the process to ensure mining is fair on the environment and communities involved, is "cumbersome" and the entire burden is on the companies.

Ramakrishna Chinnamsetty, project head of ArcelorMittal (India), said requirements related to environment and social components in a mining project are important but pointed to the difficulties with the overall process. ArcelorMittal is one of the world's leading steel and mining companies, which is present in more than 60 countries.

"The process for getting the land for afforestation and the one related to rehabilitation and resettlement of the people is very cumbersome. Some of these issues take years. Another major challenge is the public hearing that is conducted for the projects as it involves getting the consensus of all stakeholders. All these issues together delay the projects by years. For industry, it takes a huge amount of effort and the government should play an active part in ensuring that this should become a smooth process," Chinnamsetty told Mongabay-India.

Over the past few years, the concept of "just transitions" has emerged as a crucial component of discussions around mining and energy. The idea involves efforts to ensure that mining activities are not leading to harmful impact on the environment and the communities living in close vicinity of the mines. It also entails the energy industry moving to cleaner fuels from coal to renewable power.

Anil Chaudhary, who is the Chair, Minerals and Metals Committee, PHDCCI, an industry body, said, "These days companies are being assessed on ESG criteria i.e Environmental, Social, and Governance criteria."

"The developed countries have moved beyond judging companies on only environmental sustainability but now issues like fair governance for all its stakeholders as also the society at large are also being given weightage. Even banks and investors are using ESG criteria to avoid companies that might pose a greater financial risk due to their environmental or other practices," said Chaudhary, who is also the former chairman of state-run Steel Authority of India Limited.

He noted that in India the mines are mostly in the tribal and backward areas, hence "courts and the government have put stringent norms on the mining sector." He claimed that all public sector units are strictly following all laws and are going "overboard to carry out their social responsibility towards the local population and environment."

"Mining companies, both public sector and private sector ones are using their CSR (corporate social responsibility) funds to provide medical facilities, drinking water, and education to kids of the local populace as also skill development programs to ensure Just Transition and fulfil their social responsibilities and be a corporate citizen," he said.

In order to ensure a healthy transition of a mining area, restoring the area of the mines is an important requirement but the experience in India shows that once the mineral reserves are finished the mines are often abandoned or the reclamation work is not carried out properly even though that is a legal requirement. Even the courts in India have repeatedly stressed that greening of the closed mines is important for everyone involved whether the local environment, wildlife or the communities involved.

"In order to contribute to sustainable development, a mine must minimise environmental impacts throughout the mining life cycle from exploration, through construction and extraction to closure and reclamation. The principles of sustainability require mining lands to be returned for some other beneficial use once mining operations are finally over," said PHDCCI's Chaudhary.

He explained that local communities in mining areas often become dependent on mining companies directly providing or subsidising facilities and services such as schools, hospitals, community centres, sports facilities, roads, self-help activities etc. "Hence local communities and all other stakeholders must be proactively involved in the closure process so that their views and interests are reflected in the closure plan and benefits of mining are sustainable for future generations."

Sustainable mining: Reality or a mirage?

Sustainable mining – which deals with minimising land conflicts, reducing pollution, increasing efficiency, and reclamation of mined-out areas – is a concept often proposed as a solution to control the impact of mining on ecology and people. Additionally, civil society groups such as the Goa Foundation have also

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consistently called for implementing the concept of intergenerational equity – natural resources are to be shared with and hence secured for future generations – consistently for minerals across the planet stating that it is in line with the sustainable development goals and the Universal Declaration of Human Rights.

The concept of sustainable mining also finds a mention in India's National Mineral Policy 2019 which calls for studies to assess "state-wise/region-wise ceiling of annual excavation of minerals, considering the availability of mineral resources, the carrying capacity of the region, and the macro-environmental impact on the region while also keeping in mind the principles of sustainable development and intergenerational equity and all other relevant factors."

The policy also states that environmental, economic and social considerations must be taken into account as early as possible in the decision-making process, to ensure "sustainable development in the mining sector which envisions mining as financially viable; socially responsible; environmentally, technically and scientifically sound; with a long term view of development; uses mineral resources optimally; and, ensures sustainable post-closure land uses."

But not everyone in the mining industry is on the same page.

A September 2020 report Intergenerational Equity – a bygone concept by the Federation of the Indian Mineral Industries noted that this concept will "not only deprive the present and future generations of the fruits of resources utilisation but, by its very nature, is anti-development."

"While on the one hand recyclability of metals and the abundance of resources make them infinitely finite, on the other, the so-called renewable resources i.e. fish, agricultural land and freshwater are under intense pressure and the threat of scarcity," said the report as it emphasised that the concept has lost its relevance.

In fact, the report says that emerging evidence suggests that "through human ingenuity, technology in beneficiating yesterday's waste, increased focus on recycling and circular economy, the world has been able to increase its mineral resource base multiple times despite growing production. Thus, there should not be any fear of scarcity of resources for humankind in the foreseeable future."

India has significant resources of minerals and the mining sector is also an important segment of the Indian economy. It produces at least 87 minerals and the value of mineral production in India in 2015-16 was about Rs. 2.82 trillion (Rs 282,966 crores).

Can clean energy push lead to "just transition"?

The transition from coal to clean energy like solar and wind power is considered a significant solution and over the years India has made rapid strides in the sector. In 2015, it had promised to achieve 175 GW of installed renewable power by 2022 and, at present, India has already achieved over 94 GW of installed renewable power.

Anil Chaudhary of PHDCCI said: "The government of India is aiming to achieve 227 GW of renewable energy capacity by 2022, much ahead of its target 175 GW as per the Paris Agreement. A lot of new RE projects are also in the pipeline and will be commissioned soon." He said he is confident that both mining and energy sectors are bringing about transitions that are "just" to the communities and the environment.

He, however, said there are two major challenges in India's clean energy targets. "We are heavily dependent for components used for generating renewable energy like solar photovoltaic (PV) cells, panels and modules on imports majorly from China. It is only now that our government has taken some decisive steps for encouraging the manufacturing of these components in India which will show results in coming years," Chaudhary said.

He also highlighted that as a result of the falling cost of solar power, many state governments are forcing renewable energy producers to "renegotiate earlier signed power purchase agreements which are making foreign as well as domestic investors jittery."

What is the way ahead for the Indian mining industry?

The Indian government's emphasis on bringing reforms in the mining sector is sufficiently clear. The government, despite the controversy, has also amended the rules and laws to ensure the path is smooth for the industry.

The tribal communities and forest dwellers, living in and around mining reserves, and environmental groups have complained that the changes in the mining laws have been brought without involving them.

The government has also said that mining sector amendments are crucial to India's efforts in reviving the economy post-Covid-19. Meanwhile, the mining industry maintains that they undertake a lot of work in the mining areas which triggers a lot of development in the area and thus they need government support.

K. Madhusudhana, who is vice president (mines), MSPL Limited, a company involved in iron ore mining for over 50 years and renewable power projects too, explained that the mining companies undertake a series of steps to ensure the safety of the environment and facilities to communities involved.

He recounted steps ranging from afforestation with native species, wildlife management, soil management, dump management, surface water management activities, and reclamation. "Every year, afforestation targets are taken up by mining companies which have improved the green cover of the local areas. It has also led to the improvement of flora & fauna. Exhausted mining pits are being used for natural water harvesting purposes and accumulated water is being used for mining requirements and for local cultivation purposes etc."

Madhusudhana, who is also the vice president of the Mining Engineers Association of India, highlighted that the companies are providing drinking water facilities, school/education, road connectivity and maintenance, and a local dispensary for the local villages.

"Socioeconomic development of the area is seen due to direct employment provided by mining companies to the locals. Allied industries/activities are also developing in these areas which helps in creating more jobs and wealth," he told Mongabay-India.

While ArcelorMittal's Ramakrishna Chinnamsetty stated that a "mining company is mandated by law to comply with a series of environmental laws while pursuing a project."

"We have to get an environmental impact analysis and environmental management plan to ensure all aspects are taken care of. But sometimes so many conditions are put on a project while granting clearance to a project whether it is related to water bodies, FRA or wildlife. The solution is that the governments where the projects are undertaken can share

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the responsibility as the project that is being developed is also going to contribute to the state's economy and give work to the local people," he said.

PHDCCI's Anil Chaudhary also said that laws alone do not succeed in ensuring sustainable development in the mineral sector. "There has to be a genuine commitment to the principles of sustainability on the part of mining enterprises and also a realisation on their part that caring for environmental and social issues also makes for good business as it results in minimising social risks and its potential to adversely affect mining investments," he said.

He advocated that the environmental behaviour of the mining companies "should go beyond mere compliance to the provisions of law."

"By adopting new technologies like IoT (Internet of Things), AI (Artificial Intelligence), drones, satellite imagery; scientific management techniques; improving energy efficiency and water audit; using renewable energy and green hydrogen and constantly innovating, mining companies can overcome various environmental issues," he said.

- Mayank Aggarwal

Source : Mongabay

Tata Steel to participate in iron ore mine auctions, says MD and CEO TV Narendran

Iron ore, which is a key input for blast furnace steelmakers, is at a new high. Iron ore futures in Singapore are up 10 percent. TV Narendran, MD and CEO of Tata Steel discussed the company's iron ore strategy.

"We will participate in the iron ore auctions," he said in an interview with CNBC-TV18. "..We will be conscious of what price to bid because when you get these iron ore mines, you have to run it for 50 years. So that way we will be prudent," he added.

"Hopefully we will have iron ore mines with us even as we reach 2030," he shared. "We have set up this company called Tata Steel Mining which is going to be focused on both captive and merchant mining," Narendran further mentioned.

In terms of selling iron ore, he stated, "I would think over the next few years, we will start selling some iron ore. We will explore all the opportunities." On steel prices, he said, "The steel prices in India are the lowest in the world right now. Anybody who is using steel to make products that they want to export are in a better position than anybody anywhere else in the world. So I wouldn't be surprised if there is a regulatory move but we will respect whatever the government decides."

"The US has always been a market which is difficult to sell a lot of steel into because you have anti-dumping action if anyone exports steel into the US.

So it has never been a very big market for Indian exporters."

"What is happening is because the US steel prices are very high, a lot of steel products which use steel are being exported into the US from other countries because the US steel consumers are paying USD 1500 to buy steel."

"So that puts them at a competitive disadvantage compared to other players elsewhere. So we see an indirect positive impact of high prices in US – not so much direct impact on us but indirectly it helps us," he shared.

Odisha to recover 1,042 cr. from company for excess iron ore mining

Odisha's Directorate of Mines has served a show-cause notice to the Sarada Mines Limited for recovery of 1,042 crore towards alleged excess iron ore production in Keonjhar district.

Following a Supreme Court order, the company was allowed to resume mining operation in the Thakurani-B Iron Mines in January, 2020."On verification it has been noticed that you have produced 61,53,976 metric tonnes during 2020-21, which is 21,53,976 MT higher than approved lowest limit of environment clearance, mining plan and consent to operate," said the Keonjhar Joint Director in the notice.

The company has been served the show-cause as to why the cost price of compensation under Section 21(5) of the Mines and Minerals (Development and Regulation) Act 1957 should not be recovered from it.

The government issued the notice on May 28 giving seven day-time for submission of reply. As per the environment clearance, the company was accorded permission to produce 40 lakh metric tonnes in a year. As per the Indian Bureau of Mines, the average price per metric tonne during the past 12 months was 4,939.

In brief: mining rights and title in India

Mining rights and title

State control over mining rights

To what extent does the state control mining rights in your jurisdiction? Can those rights be granted to private parties and to what extent will they have title to minerals in the ground? Are there large areas where the mining rights are held privately or which belong to the owner of the surface rights? Is there a separate legal regime or process for third parties to obtain mining rights in those areas?

The central government regulates mining and mineral development and the state government grants concessions, collects royalty and other fees when the mineral is located in land vested in the state. While earlier concessionary rights were granted on a first come first serve basis following amendments in 2015 concessions to all major minerals are granted through an auction. A private party who has a mining lease for particular minerals has full title, albeit with permitted end use stipulations as may be applicable over these minerals.

There are large areas where mining rights are held by private parties and in 2015 it was estimated that there were nearly 10,621 private mines. In 2013, the Supreme Court conferred rights to mineral wealth on owners of surface rights rather than vesting them in the state, and which has been upheld in recent judgments as well. However, the Supreme Court is yet to rule on certain aspects of ownership of minerals such as the liability of private owners to pay royalties to the state.

As part of the reforms, under the new regime, a landowner who wants to grant a prospecting licence or mining lease to a third party can do so only with state government authorisation. In cases of such private mining leases, the mining lessee must comply with the central government mining regulations as well as provide the state government with a security deposit for ensuring compliance with the mine closure regulations.

Publicly available information and data

What information and data are publicly available to private parties that wish to engage in exploration and other mining activities? Is there an agency, or securities commission regulating public companies, which collects mineral assessment reports from private parties? Must private parties file mineral assessment reports? Does the agency or the government conduct geoscience surveys, which become part of the database? Is the database available online?

The National Mineral Inventory of the Indian Bureau of Mines provides a comprehensive overview of exploration, development and mining activities carried out in India by central and state governments, public sector utilities and private agencies. The inventory provides mineral-wise and state-wise information with regard to location, infrastructure, geology, exploration, physical and chemical properties, freehold or lease hold status, etc.

The Geological Survey of India (GSI) carries out geological mapping and acquires geoscience data for the entire country. It generates and disseminates this information to other exploration agencies for accelerating the mineral exploration process.

Under the National Mineral Exploration Policy 2016, the GSI is required to provide all pre-competitive baseline geoscience data free of cost to parties. Other than the GSI, the Directorates of Geology and Mines of certain state governments, the Mineral Exploration Corporation Limited and other government-owned companies also carry out detailed exploration of mining areas and maintain information databases.

The National Mineral Exploration Trust has also been newly created to carry out regional and detailed exploration for minerals. In addition, the Indian Bureau of Mines provides information on the number of mines in operation and their mineral quality either at a cost, or on a restricted access basis at its offices.

As regards reporting, a mineral concession holder is required to provide geophysical data relating to prospecting, mining and engineering to the GSI and the state government. All mines are also required to mandatory file returns with Indian Bureau of Mines.

Acquisition of rights by private parties

What mining rights may private parties acquire? How are these acquired? What obligations does the rights holder have? If exploration or reconnaissance licences are granted, does such tenure give the holder an automatic or preferential right to acquire a mining licence or more senior tenure? What are the requirements to convert to a mining licence?

A private party can apply for a reconnaissance permit, prospecting license, a mining lease or a composite licence (prospecting licence-cum-mining lease).

Currently, mining leases and composite licences are only granted through a competitive bidding process. A composite licence holder has the right to move from prospecting to mining; however, a reconnaissance or prospecting license holder is not entitled to a preferential claim for grant of a composite licence or mining lease.

Obligations of the rights holder include:

- obtaining all necessary permits and consents;
- operating the mine in accordance with the mining plan;
- commencing mining operations within two years of execution of mining lease;
- payment of royalty, dead rent, surface rate or other fees;
- keeping accurate accounts of minerals mined, waste material excavated, employees and all mining plans;
- allowing inspections by the authority;
- restoring the land, to the extent possible, affected by prospecting or mining activity; and payment of compensation for all damages, injury or disturbances caused in exercise of its rights.

Renewal and transfer of mineral licences

What is the regime for the renewal and transfer of mineral licences?

A mining lease is granted for a period of 50 years and cannot be renewed.

The state government may renew a prospecting licence (which is usually granted for three years) subject to a maximum of five years provided an application for the renewal is made 90 days before expiry.

A mining lease or composite lease obtained through auction can be transferred to a third

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party. Prior to the transfer, the parties are to jointly apply to the state government in the specified format. The state government is required to convey its decision within a period of 90 days of receipt of the application, failing which, the state government will be deemed to have no objection to such transfer. Following the transfer, the parties are to submit a duly registered transfer deed in the prescribed form to the state government.

Duration of mining rights

What is the typical duration of mining rights? Is there a requirement to relinquish a portion of the mining rights to the government after a certain number of years?

Mining leases are granted for 50 years, at the end of which, the mine is to be re-auctioned. A reconnaissance permit or prospecting licence may be granted for three years, and the latter may be extended subject to a maximum period of five years.

The state or central government may terminate a lease or licence before its term on the following grounds:

- regulation of mines and mineral development;
- preservation of natural environment;
- control of floods;
- prevention of pollution;
- to avoid danger to public health or communications;
- to ensure safety of buildings, monuments or other structures;
- for conservation of mineral resources; and for maintaining safety in the mines.

No such order for premature termination can be made without giving the licence or lease holder a reasonable opportunity of being heard.

A mining lease lapses if an entity fails to start mining operations within two years of the date of execution of the lease or discontinues mining for a period of two years unless the state government is satisfied with the reasons for such delay and in which case an extension not exceeding one year may be granted. There is no requirement for relinquishment of any portion of the mining rights to the government after a specified period.

Acquisition by domestic parties versus acquisition by foreign parties

Is there any distinction in law or practice between the mining rights that may be acquired by domestic parties and those that may be acquired by foreign parties?

Mineral concessions in India are granted to Indian nationals or entities incorporated in India only. However, foreign parties can invest up to 100 per cent in the equity of such companies through the automatic route under Indian foreign direct investment policy.

Protection of mining rights

How are mining rights protected? Are foreign arbitration awards in respect of domestic mining disputes freely enforceable in your jurisdiction?

There are no special courts or tribunals to adjudicate on mining rights. However, the 2015 MMDR Amendment Act provides for the establishment of special courts to deal with cases of illegal mining. Further, the National Green Tribunal may also adjudicate on disputes regarding environmental non-compliance in any mining activity. India has an independent judicial system that consists of the Supreme Court of India as the apex judicial body under which are the High Courts, subordinate courts as well as the various tribunals.

India is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the New York Convention) as well the Geneva Convention on the Execution of Foreign Arbitral Awards 1927 (the Geneva Convention). If a party receives a binding award from a country that is a signatory to the New York Convention or the Geneva Convention and the award is made in a territory that has been notified as a convention country by India, the award would then be enforceable in India.

Surface rights

What types of surface rights may mining rights holders request and acquire? How are these rights acquired? Can surface rights holders oppose these requests or does the holder of the mineral tenure have priority over surface rights use?

A mining rights holder is required to obtain surface rights over the area or obtain the consent of the owner to start prospecting or mining operations.

In relation to government-owned land, the selected bidder is granted surface rights by the government authorities. During prospecting, the approval of the government authority, such as the deputy collector, needs to be taken to clear vegetation to construct drains or use any underground water. The rights holder is liable to pay surface rent and water cess for the surface area used for the purposes of mining operations. The mining lease holder must prior to using any land for new surface operations give written notice to the government authority, which has a right to raise objections and restrict the rights holder's use of the surface.

When private landowners grant prospecting licences or mining leases, they may grant surface rights to such third parties according to the terms of their agreement.

Further, the government exercising the power of eminent domain can acquire land for public purposes such as mining under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013. However, this is subject to consent requirements from the surface rights holders and such acquisitions can be opposed.

Participation of government and state agencies

Does the government or do state agencies have the right to participate in mining projects? Is there a local listing requirement for the project company?

Yes. The government and state agencies have a right to participate in mining projects and the public sector companies have traditionally dominated the mining sector. All companies undertaking mining activity must be incorporated in India – there is no specific listing requirement.

Government expropriation of licences

Are there provisions in law dealing with government expropriation of licences? What are the compensation provisions?

While there is no formal ability for expropriation, the government has the right to prematurely terminate a prospecting licence or a mining lease on specific grounds.

Protected areas

Are any areas designated as protected areas within your jurisdiction and which

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are off-limits to mineral exploration or mining, or specially regulated?

Under the Indian Constitution, the Indian President may notify certain lands as 'scheduled areas' that have a special governance mechanism. Scheduled areas are tribal dominated areas that are underdeveloped and show marked economic disparity. Laws formulated in relation to scheduled areas typically have more restrictions on land acquisitions and transfers. Further, the central or state government may also reserve certain areas (that are not already held under lease or licence) with a view to conserving any mineral. Any mining activity in such reserved areas is only done by government companies.

Trilegal - Karthy Nair and Neeraj Menon

'Auction Odisha's bauxite mines on priority basis'

Odisha alone has the potential for multi-fold growth in bauxite production from current 12-13 million tonnes to over 50 million tonnes per annum to meet the domestic bauxite requirement of the nation and curb imports.

The State can also auction abundant bauxite reserves which have the potential to garner Rs 5,000 crore for the exchequer and 10,000 livelihood opportunities for every mine auctioned.

Odisha can take a cue from the success stories of mineral-rich developing countries like Guinea in West Africa or even developed countries like Australia. Their concerted efforts to unlock their mineral power saw large-scale economic development and global dominance in the world's supply chain. Successful auction of bauxite mines will further attract huge investments in the State wherein fresh investments of over Rs 2 lakh crore are envisaged in aluminum sector to meet the growing demand.

This will ensure optimum utilisation of domestic natural resource, saving precious foreign exchange, generate huge local employment opportunities and yield rich socio-economic dividends for the State. Highlighting Odisha's bauxite importance in charting India's aluminum dream, geologist and former Executive Director, Nalco, and ex-advisor, Ministry of Mines RC Mohanty said, "Per capita consumption of aluminum in India is about 2.5 kg, compared to the world average of about 11 kg and China's 24 kg, while many developing countries have already reached 8 kg. Our ambitious economic growth would surely increase this to 7 kg to 8 kg., matching other developing nations. This will push aluminum requirement from present levels of 4 million tonnes to 12 million tonnes per annum, which will require an increase in bauxite mining from current levels of 24 million tonnes to at least 72 million tonnes."

The import of bauxite, one of India's most abundant ores, has caused an estimated forex loss of over 571 million dollars in the last six years alone. It is a matter of great concern that despite its relevance and recognition as one of the 12 champion industries, no metallurgical grade bauxite mines has been successfully auctioned in the last six years since the inception of MMDR Act 2015. Planned new investment of over Rs 50,000 crore in the aluminum sector has been put on hold due to this bureaucratic chokehold. For India to achieve its manufacturing vision, a rapid growth inm bauxite production from the current 20-22 million tonnes to 72 million tonnes per year is needed to meet the growing domestic requirement.

The catalyser in this growth trajectory will be how India taps its vast deposits of bauxite. Despite one of the world's largest deposits, the possible key to fast-track India's development is being ignored, as auxite mining is yet to be prioritized.

Centre seeks Odisha view to fix mineral price lapses

The panel under the chairmanship of former coal secretary SK Srivastava has also sought suggestions on the incidence of double calculation of royalty due to its inclusion in calculating ASP.

The Ministry of Mines has sought views of all stakeholders including Odisha government to address the issues and shortcomings that come in the way of fixation of average sale price (ASP) of non-coal minerals. The Ministry has sought suggestions from various stakeholders to overcome the issue till the National Mineral Index (NMI) is formulated for individual minerals.

In April, the Mines Ministry had constituted a committee for examining the double calculation of royalty due to its inclusion in calculation of ASP of minerals and developing an NMI for valuation of mineral resources as well as for determination of value for auction of mineral concessions and statutory payments for future auctions.

"The committee has decided to seek comments/suggestions from the governments of states and union territories, mining industry, stakeholders, industry associations and other entities concerned, on the issues and shortcomings in fixation of ASP currently being done and suggest measures to overcome these till NMI is formulated for individual minerals," said a notice of the Ministry.

The panel under the chairmanship of former coal secretary SK Srivastava has also sought suggestions on the incidence of double calculation of royalty due to its inclusion in calculating ASP.

Under the existing system, the Indian Bureau of Mines (IBM) determines the price of non-coal minerals. "The value of

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production of metallic and non-metallic minerals is calculated by multiplying in each case the quantity of production and the ex-mine price (pit's mouth value) per unit as furnished by mine owners in the returns in all cases except captive mines for which the value is calculated on the basis of the cost of production," said a senior executive of the mining industry.

Earlier, Federation of Indian Mineral Industries (FIMI) had urged the Centre to continue with the present system of average sale price published by IBM which it said is the most effective and transparent way to ensure price discovery and revenue to the exchequer.

Ore exports: Odisha steelmakers in a quandary

The steel industries sector which has been declared as an emergency commercial activity during the Covid pandemic ostensibly to keep the national and State coffers in good shape, is facing acute shortage of iron ore in Odisha. The major reason for the scarcity of the mineral is its rampant inter-State export.

Apprehending gloomy days ahead, the Odisha Sponge Iron Manufacturers' Association, a leading body of steel producers, has requested the State Government for immediate intervention in the matter to protect the industry as well as thousands of employments created by it in the State."

Currently, the installed plants in the State need about 81.40 milliontonnes per annum (mtpa) of high-grade iron ore after deducting supplyfrom captive mines, which has become impossible to source because of rampant inter-State export of iron ore outside the State, making it very challenging for Odisha based end use plants to secure ore availability at reasonable prices," the association wrote in a letter to the Principal Secretary, Department of Steel and Mines, Odisha.

The body said the mindless inter-State export of iron ore has led to substantial surge in price of the mineral within a year, hitting the viability of several industries.

Once the steel industries sector become unviable, nearly five lakh people directly or indirectly employed in them will lose their jobs. Both the Union Government and State administration earns thousands of crores rupees from the mining sector and steel production units in the form of royalties on minerals and excise duties.

The Odisha Government alone earns around Rs 30,000 crore mining revenue. "The situation is very grim as a majority of merchant miners are profiteering by exporting ore outside the State causing huge loss to Odisha and Odisha-based end use plants which generate much larger employment for Odia people and larger revenue to the State exchequer," the letter added.

16 mineral blocks up for auction soon: Chhattisgarh to Centre

Speaking at a virtual meeting with Union Coal and Mines Minister Pralhad Joshi, Chhattisgarh Chief Minister BhupeshBaghel informed him of the development.

The Chhattisgarh government will auction 16 new blocks of iron ore and limestone in the coming months, the Centre was informed on Friday.

Speaking at a virtual meeting with Union Coal and Mines Minister Pralhad Joshi, Chhattisgarh Chief Minister BhupeshBaghel informed him of the development. Joshi appreciated the state for taking the initiative to auction mineral blocks in line with instructions of the Centre, state officials said.

During the meeting, also attended by senior secretaries from the coal ministry and the state, Baghel requested Joshi to reserve Bailadila Iron Ore Mine-1 for of Chhattisgarh Mineral Development Corporation (CMDC) to promote iron ore-based industrialisation in the Bastar region. He added that such a move could be a good way to eradicate the problem of Left-Wing Extremism in the region.

According to officials, Baghel also requested the Union minister to amend the Centre's order to make District Collectors ex-officio chairmen and all MPs ex-officio members of the District Mineral Foundations (DMF).

According to officials, Joshi assured those present that he would take the necessary steps on the state's demands. He also commended the state for being the first in the country to auction mine blocks as per the Centre's directions.

He also demanded early transfer of Rs 4,100 crore, the amount recovered from private coal mines operated before 2014, as per the Supreme Court orders.

In response, Joshi directed officials to send a proposal to the Centre for the agency to utilise funds from the National Mineral Exploration Trust (NMET) to explore the availability of base metals in Bodal area, under Ambagarh outpost of Rajnandgaon.

In a series of tweets after the meeting, Joshi said, "Following up on mining reforms, had a meeting with CM of Chhattisgarh, Shri @bhupeshbaghelji. Deliberated on several ongoing issues pertaining to coal and mineral mining in state. Government is working with state administration to facilitate early operationalisation of auctioned mines." In another tweet, he said, "Hon'ble CM has assured to auction more than 16 blocks over the next 2 months. These will be from long-standing blocked mines that have reserves of 1,192 MT worth nearly Rs 1.9 lakh crore."

How ore auctions undermine market

The current round has skewed the market in favour of captive users vis-a-vis merchant miners

The March 2021 amendments to the MMDR Act are expected to bring in transformative reforms for the Indian mining sector. Odisha, with huge iron ore resources, has already completed the first phase of iron ore auctions in 2020 and the next lot of auction is in the offing.

There are a few lessons from the previous auction. First, the 2020 auction gave rise to exorbitantly high winning bids, which are irrational and unsustainable. It witnessed bids in terms of revenue sharing premiums ranging from a low of 90.9 per cent to the highest of 155 per cent.

Revenue share is one component of the cost, the others being royalty, District Mineral Fund, National Mineral Exploration Trust, besides the cost of production itself which nearly accounts for an additional 25-30 per cent.

Such irrational bids of paying more than one earns, defies logic. The government seems to be euphoric that it would earn more revenue than the auctioned value of reserves during the lease period with negative returns to the miners. An analysis of Ministry of Mines statistics, based on data from auction of 103 blocks, shows that the total revenue to State governments is around ₹8.3-lakh crore vis-à-vis an estimated resource value of ₹8.04-lakh crore.

But sustainability of such a scenario is questionable for how can one pay more than one earns?.

Second, the mining space has witnessed an undesirable shift making it skewed, distorted and polarised. The space has been cornered by the end-users whereas the merchant miners have been relegated to the background. In Odisha, of the 1,942 million tonnes (mt) of iron ore reserves auctioned in the first phase, about 319 mt have been surrendered. Of the remaining 1,623 mt, end-users have bagged almost 1,450 mt, accounting for 85 per cent of the total reserve.

Merchant, or standalone, miners who had 100 per cent of these reserves in the pre-auction regime, now account for only 15 per cent. The classification of mining leases was the culprit. While captive mines were reserved exclusively for the end-users, the non-captive mines were open to both merchant as well as end-users. The end-users thus had the benefit of bidding for both categories of mines, whereas the standalone miners were eligible only to bid in the open category mines.

The outcome was the end-users bagging most of the blocks. The skewed access and entitlement led to an irreversible distortion and absence of a level- playing field.

Third, the unsustainability of high bids has resulted in five out of the 21 auctioned mines having been surrendered or taken back by the government. All these mines were in the open category. Six bidders have not been able to commence production till date. This leaves only 10 mines wherein production could be commenced.

The tender stipulation that in the first two years the successful bidders should produce at least 80 per cent of average production of last two years have not been met by any of the bidders. This has led to the violation of the Mine Development and Production Agreement.

A rough estimate indicates that against the current EC capacity of about 56 mt iron ore of such auctioned mines, only 20 mt was produced during FY21, which is expected to increase to around 38 mt in the coming year.

The fourth lesson is that the standalone miners have become a vanishing species. Mining may no longer be an independent industry which is inconsistent with global practice. Iron ore mining in India has now become an appendage and adjunct of steel manufacturing.

Finally, it has led to a situation where the resource availability and assurance to the end-users is sought to be satisfied through the linkage of owning mines, captive or otherwise. The option of alternative resource linkage like the one by way of a fuel linkage supply arrangement in case of coal seems to have been ignored. Ownership of mines as a source of secured resource availability or assurance gets undue preference over the alternative approach of meeting the same objective. This is worrisome.

Too little, too late

By removing the distinction between captive and non-captive and providing additional payout by way of additional royalty on open market sales by captive miners, this asymmetry is sought to be addressed. It is however, too little and too late. The policy and legal framework have given rise to a much distorted marketplace where there are various categories of players. They are: (a) PSU merchant miners like NMDC and OMC, (b) PSU end-users like SAIL, (c) Non-auctioned captive mines, (d) Auctioned captive mines, (e) Auctioned merchant mines, and (f) Pre-auctioned continuing merchant mines.

As far as PSU mines (both captive and merchant) are concerned, they enjoy the privilege of lease extension without subjecting themselves to the auction process. This privilege by virtue of the current amendment comes with a moderate cost of additional royalty for sale in open market, the auctioned captive miners would pay 50 per cent over and above the normal royalty for sale in excess of 25 per cent of production up to 50 per cent.

The non-auctioned captive miners will also pay additional royalty of 150 per cent or 250 per cent depending on the type of product. The additional royalty mechanism, however, does not provide a level-playing field in an already distorted mining space.

An analysis shows that the total statutory liability, after factoring additional royalty, as a percentage of the sale price, is very wide across various categories of mines mentioned above ranging from as low as around 20 per cent to as high as 175 per cent showing an unusual differentiated cost structure reconfirming absence of a level-playing field.

Going forward, the end-users will continue to benefit from the auction by virtue of their having the option and flexibility to absorb the higher cost of revenue sharing in their product prices. The recent amendment may bring some sobering effect on the bidding numbers but this may not address and correct the distorted structure.

The sector is entering into a highly polarised framework where a few dominant players will have control over the resource base as well as finished products. The emerging scenario may worsen the plight of intermediate players like pellet and sponge iron manufactures who have been dependent on merchant miners for their

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requirements. They will now be at the mercy of big end-users. Their cost of procurement and ultimate viability will be a matter of concern. In such a scenario, the character and composition of players can hardly be termed as genuinely competitive in any future auction.

Survival of the fittest appears to be the new paradigm. In the whole process, irrespective of the fact as to who gains, the inescapable truth is that the burden will fall on the consumer who is going to be the ultimate loser.

By : Ashok Kumar Bal
Source : The Hindu Business line

EMIL And Adani Coal Project Lead The Way As India's Coal Industry Adopts MDO Model

The Mine Developer and Operator (MDO) model will assume greater relevance because of upcoming projects like EMIL's Madanpur South mine, DilipBuildcon's operations in Rajmahal Coalfield, Adani coal project in GarePelma-III coal block and VPR coal pits, among others. A Right to Information (RTI) query has revealed that at least 28 coal mines in India are run by private companies under the Mine Developer and Operator (MDO) model. The country's coal industry relies heavily on the MDO model which has been adopted and adapted to the Indian scenario. It has been a major factor in the sector's steady growth over the years, bringing in the much-needed capital to finance projects.

Under this, Public Sector Undertakings (PSUs) lease out mines to private players resulting in numerous undertakings like Sical, EMIL, DilipBuildon and Adani coal project. MDOs are expected to undertake the development of the mine, from planning, design and construction to operational functions like mining, removal and delivery. This means that the MDOs like EMIL and Adani are expected to tackle hurdles on their own before the coal projects get underway. In addition, MDOs are also expected to address the environmental and resettlement issues of the local populace. However, this has not been seen as a deterrent as new MDOs join the bandwagon.

The newest MDO entrant is DilipBuildcon that won the contract for the Siarmal mine in Odisha. It is for a period of 25 years, with the overall contract valued at Rs 36,419.07 crore. The first MDO in India was EMIL, Aditya Birla Group's mining wing. It became the largest private MDO operator in the country when it was awarded the Bhubaneshwari open cast project.

Adani Enterprises started its operations in 2013 at the Parsa East-KenteBasan mine in Chhattisgarh. Although owned by the Rajasthan RajyaVidyutUtpadan Nigam Ltd (RRVUNL), Adani runs the coal project as an MDO. This was the first amongst the four MDO contracts bagged by the group. GhidmuriPaturia, GarePelma, Talabira and Sulyari coal blocks are other sites of Adani coal projects.

Other notable mentions include VPR Mining with its overburden removal work and Sical Logistics with its overburden and coal mining work.

Additionally, coal projects are profitable investments for entities like Adani, who also have a stake in power generation. Even steel producer SAIL, NTPC and various State Governments have embraced the MDO model, choosing to forgo mining operations on their own. However, the potential gains are offset by the fact that penalties must be paid by MDOs for any shortfall in quantity, quality and delays in development.

Additional blame is heaped on them for all the inconveniences mines cause although they have no right to the ownership of said mines. Nevertheless, these setbacks are a small price to pay, given the huge potential of the coal industry.

The Mine Developer and Operator (MDO) model will assume greater relevance because of upcoming projects like EMIL's Madanpur South mine, DilipBuildcon's operations in Rajmahal Coalfield, Adani coal project in GarePelma-III coal block and VPR coal pits, among others.

Minerals (Evidence of Mineral Contents) Amendment Rules 2021

No	Proposed Amendment	Likely Impact on Indian Mining Sector	Suggestive Course of Actions
1	Inclusion of Coal & Lignite under the (Evidence of Mineral Contents) Amendment Rules 2021	1. Promulgation of partially explored coal blocks under auctioning of composite licences even at G4 level 2. Faster process of resource augmentation 3. Instilling investor confidence towards in coal & lignite by bringing uniformity with global resources reporting standards & practices like JORC, CRIRSCO & latest UNFC classifications	♦ Block identification and preparation towards composite licensing ♦ Selection of agencies towards awarding exclusive reconnaissance permits ♦ Digitization of maps, plates, plans towards creating a digital mineral information library

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No	Proposed Amendment	Likely Impact on Indian Mining Sector	Suggestive Course of Actions
2	Mineral blocks wherein mining leases has been expired, lapsed, surrendered and terminated; detailed reassessment of resources shall not be required to be carried out in cases where the estimate of Mineral Resource required for auction can be assessed on the basis of the available report of exploration or geological study report or last approved mining plan for the said area, after adjusting for the mineral already produced from the mine	1. This will remove the need for long unreasonable approval processes towards operationalization of deemed mineral blocks 2. There will be transparency in establishing the sanctity of mineral resources of already producing blocks where the leases have been expired, lapse, surrendered and terminated 3. This will also restart the old or existing abandoned mining leases which are non-operational due to long pending litigation over overlapped resources of contagious mineral blocks	♦ Identification and enlisting of such mining leases ♦ Digitization of GRs, mining plans, plates, feasibility reports of identified mining leases ♦ Revalidation of quantum of mineral produced till date from already operational mining blocks through notices and returns submitted to Government ♦ Publication of such mineral blocks to gain investor confidence for attracting investment
3	G3 Exploration of surficial minerals (like limestone) it has been proposed at least 3 bore holes are drilled so as to form a polygon in blocks of less than 100 hectares and at least 5 bore holes in blocks of more than 100 hectares	1. With change in drilling requirement for G3 stage exploration, will reduce the overall time for block preparedness (i.e. from core logging to lab analysis) 2. This will result in formulation of smaller area mineral blocks which are village specific to be put up for auctioning post exploratory drilling. It will give rise to smaller meterage exploration drilling specifically conductive for shallow surficial deposits like minor minerals 3. It will also give rise to promulgation of MSMEs i.e. local / regional drilling contractors. Through faster exploration of surficial mineral deposit It will expedite the auctioning of surficial mineral deposit	♦ Mapping of village specific minor mineral assets with specified drilling requirement ♦ Selection of drilling agencies for fast-track exploration of mineral blocks ♦ Formulation of framework for monitoring of drilling agencies
4	Preparation of inclusive prefeasibility report along with the Geological Report for probable mineral reserves	1. It will reinforce the viability of mineral assets and instil investor confidence and will improve the turnaround time block preparedness	♦ State govt. may empanelled with the drilling agencies for preparation of Geological Report and Pre-Feasibility Report
5	Assigning responsibility & proper acknowledgment of the subject mater experts in preparation of the Geological Report	1. This will help in proper referencing of the qualified personal and strengthen the working institutional framework of mineral sector	♦ State mining bodies must start developing departmental SOPs for exploration work i.e. block identification to auctioning

SWASTHA

A GEMCOKATI EMPLOYEES INITIATIVE

The unveiling of happiness

No medicine cures what happiness cannot....

Gabriel Gracia Marques

Once a great spiritual teacher was asked by one of his followers that "teacher I have been looking for happiness for the last 20 years and, have been doing everything supposed to do in search of happiness, but unfortunately couldn't find happiness or joy. Kindly helped me.

The teacher paused for a moment and said- Son the answer of course is very simple. You have to give up your search for happiness. He further said that if you didn't find it in 20 years, you are not going to find it in another 20 years.

The teacher continued that, if you notice a small child of five years old and an adult who do you think is the most happiest among them. The answer is obviously the small child.

Human beings living in the 21st century have achieved almost everything and there was no generation in the history of human civilization being blessed so much in terms of comfort and convenience. You name any dimension of human existence, health, education, living standard, travel, communication, telecommunication, they have attained epitome of minds imagination. Yet the experience of happiness state is for most of the people, a distant and long cherished dream.

Now the teacher touches the close of the desire and explains - the child doesn't carry any kind of past experience, belief, and the most important thing - memories. The second most important factor is the imagination of the future.

The adult only carries memories of the past and imagination of the future on his shoulder which weighs him down but the child only lives in the present moment, eventually experiencing a bliss state of being.

The teacher says that adults should use the past memories and imagination of future as a powerful tool with regard to only evolution and growth by eliminating the lack mindset and inculcating within self only and only acceptance, appreciation and abundance state of being.

Of course, the journey is outwards, but is starts from inwards. Concluding the answer to a mystery for millions of Humans on this planet, the teacher says, "happiness is your true nature, so you just have to search for your innate nature, the essence of the you are, the state of aliveness, the continuous acknowledging of gratitude to the universe, you experience the state of inner peace, and that is what we call as happiness.

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