



# Legislative and Governance Framework and recent developments in Mining laws

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# Legislative Framework of Mining and Sustainability-MMRD Act, 1957

- Mines Act, 1952.
- Legal Exploitation of Minerals except “mineral oils”
- “notified minerals” ( IVth Schedule) (Bauxite, Iron ore, Limestone, Manganese ore.
- minor minerals" means building stones, gravel, ordinary clay, ordinary sand other than sand used
- RP
- PL ( PL cum ML) ( 2015)
- ML
- Other than “mineral Oils”- Petroleum and Natural Gas- Petroleum Act
- Other than Atomic Energy- Atomic Energy Act
- Latest Amendments in 2015 – About those Leases before the Amendment Act
- And 2016-





# Exceptions to the Rule

- Geological Survey of India,
- Indian Bureau of Mines,
- Atomic Minerals Directorate for Exploration and Research of the Department of Atomic Energy of the Central Government,
- Directorates of Mining and Geology of any State Government ( by whatever name called ), and
- Mineral Exploration Corporation Limited, a Government Company within the meaning of Companies Act, 2013, and any such entity that may be notified for this purpose by the Central Government.
- Any mineral specified in Part A and Part B of the First Schedule, no reconnaissance permit, prospecting licence or mining lease shall be granted except with the previous approval of the Central Government (Hydro Carbons Energy Minerals- Coal and Lignite ; Atomic Minerals)

# Legislative Framework of Mining and Sustainability

- Minerals (Evidence of Mineral Contents) Rules, 2015
- Termination of Mining lease or PL by Central Govt as well as State Govt. ( Section 4A)
  - preservation of natural environment,
  - control of floods, prevention of pollution, or
  - to avoid danger to public health or communications or
  - to ensure safety of buildings, monuments or other structures or
  - for conservation of mineral resources
- Duty of the Central Government
  - for the conservation and systematic development of minerals in India and for the protection of environment by preventing or controlling any pollution ( Section 18)
  - Directions may be issued too through Rules
- Rules shall be guided by the Provisions...of...the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.”





# Other Conditions

- Approved Mining Plan is a must
- Maximum Area-
  - PL- 25 sq km in a state
  - RP-10,000 sq km ( Single RP- 5,000 sq km)
  - Now Increase of area possible ( CG permission-2015)
- Period-
  - RP/PL- 3years- extendable to 5 years
  - Par A and B subject to CG approval
  - ML- Max-30 years; Min -20 years- For Hydro carbons and Atomic
  - Renewal- 20 years with CG approval- same
  - For others – 50 years
  - Automatic renewals till 2030 and 2020...
- ML for notified minerals only through auction ( Sec 10B)
  - Competitive Bidding ; E-Auction etc..
- Reservation of areas for purposes of conservation. ( Sec 17 A)

# Other Conditions- Monies

- Royalty as per IIInd Schedule; May be increased but only once in three years
- Dead Rent- IIIrd Schedule
- District Mineral Foundation ( Section 9A)
  - Rules to be framed by the State
  - Trust
  - Max 1/3<sup>rd</sup> of royalty as described in IIInd Schedule
  - Vth and Vith Schedule context to be kept in mind
  - PESA to be kept in mind
  - FRA to be kept in mind
  - Existing Lease Holders- equivalent to Royalty for DMF
  - Funds from Minor Minerals too!!



# Framework of Mining and Sustainability

## - Monies and other Administrative Steps- MoM

- National Mineral Exploration Trust ( 9B)
  - CG
  - Trust
  - For regional and detailed exploration
  - 2% of Royalty of IInd Schedule
- Rules by CG for grant of prospecting licences or mining leases in respect of territorial waters or continental shelf of India.
- Minor Minerals to be dealt with differently.
- Periphery Development Fund- Odisha arising out of Samatha Case
- Star rating of mining leases -self certifying template



# Star Rating of mining leases

- LEASE AREA DETAILS
- LEASE AREA UTILISATION – Mining plans etc
- ROYALTY & OTHER CONTRIBUTIONS
- STATUTORY COMPLIANCES
  - Mining Plan
  - Mining Scheme
  - EC
  - SPCB
  - FC
  - LA &R&R
  - Vishaka Guidelines
- EVALUATION TEMPLATE
  - MANAGING IMPACTS AT THE MINE LEVEL-Land, water, etc
  - LAND, RESETTLEMENT AND OTHER SOCIAL IMPACTS
  - COMMUNITY ENGAGEMENT, BENEFIT SHARING AND CONTRIBUTION TO SOCIO-ECONOMIC DEVELOPMENT
  - FINAL & PROGRESSIVE MINE CLOSURE
  - ASSURANCE AND REPORTING
  - Voluntary adoption of related international standards such as QMS (ISO\_9001), EMS (ISO-14001), OHSAS (ISO-18001), Social Accountability (8000)





# Directions for sustainability-CG

- Improvement in procedure for grant of mineral concessions and to ensure co-ordination among agencies entrusted with according statutory clearances;
- Maintenance of internet-based databases including development and operation of a mining tenement system;
- Implementation and evaluation of sustainable development frameworks;
- Reduction in waste generation and related waste management practices and promotion of recycling of materials;
- Minimising and mitigating adverse environmental impacts particularly in respect of ground water, air, ambient noise and land;
- Ensuring minimal ecological disturbance, in terms of bio-diversity, flora, fauna and habitat;
- Promoting restoration and reclamation activities so as to make optimal use of mined out land for the benefit of the local communities;



# Legislative Framework of Mining and Sustainability- Implications of Other Legislation

- Mining and PESA, 1996 Including state adaptation
- Mining and EPA-1986
- Mining and FRA, 2006- Negotiating Recognised and Vested Rights
- Mining and ESA under EPA, 1986 ( Red category)
- Mining and FCA, 1980-
- Mining and CTE/CTO under Air Act, 1981
- Mining and CTE/CTO under Water Act, 1974
- Mining and Ground Water Law
- Mining and Explosives Act,



# EIA and Mining-Notifications

S.No	Notification	Date
1	EIA Notification 1994 Mining of Major Mineral more than 5 hectares Serial No. 20	04.05.1994
2	EIA Notification 2006 Serial No. 1 (a) Mining of Minerals More than 50 hectares A Category Less than 50 hectares B Category Serial No. 2 (B) Mineral beneficiation (1) $\geq 0.1$ million ton/annum mineral A Category (2) $< 0.1$ million ton/annum mineral B category	14.09.2006



# EIA and mining-Oms and Circulars

## OMs/ Circulars/ Orders

1	Mining projects with an area of under 5 hectares in operation at the time of EIA notification 2006 which possess EC under EIA notification 1994 to continue without lease under EIA notification 2006 until renewal or expansion; such projects without EC to apply for EC under all circumstances under EIA notification 2006	02.07.2007
2	Circular regarding self monitoring of mining operations i.e Ambient Air Quality , Vibration etc	27.05.2009
3	Moratorium on EIA proposals till the mineral policy of state of goa is finalised.	24.02.2010
4	Appointment of EAC members for mining projects	15.04.2010
5	Consideration of EC for UMPPs linked to captive coal blocks	30.12.2013



# EIA and Mining- Guidelines

Guidelines		
1	EIA Guidance Manual for Mining of Mineral 2010	
2	OM regarding guidelines for expansion of coal mining project	15.04.2010
3	OM regarding Guidelines for exemption from public hearing post appraisal by Expert Appraisal Committee (EAC) on EC grant for expansion of coal-mining projects with one-time production capacity	07.01.2014
5	Sustainable Sand Mining Management Guidelines 2016	



# Framework of Mining and Sustainability

## - Administrative Steps- MOEF &CC

- EC- based on Form I, TOR, EIA, EMP, Public Hearing, EAC appraisal and recommendation
- FC- Application through DFO upwards, FAC, Stage I, Compliance of conditions, Stage II, Order by State Government ( Save Mon Case)
- NPV and CAMPA
- CAG Audit of CAMPA
- EIA Amendment of 15th January, 2016 –Minor Minerals
  - District Level Environment Impact Assessment Authority
  - District Level Expert Appraisal Committee
  - Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minor Minerals
  - Procedure for monitoring of sand mining or river bed mining
  - Constitution of pan-national district-level EIA authority (DEIAA) for grant of EC to B2 category projects involving mining of minor minerals less than 5 hectares 20.01.2016



# EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE –Minor Minerals

- **Extraction of ordinary clay or sand, manually, by the Kumhars (Potter)** to prepare earthen pots, lamp, toys, etc. as per their customs.
- Extraction of ordinary clay or sand, manually, by earthen tile makers who **prepare earthen tiles**.
- Removal of sand deposits on agricultural field after flood by farmers.
- Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.
- Community works like de-silting of village ponds or tanks, construction of village roads, ponds, bunds undertaken in Mahatama Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes, and community efforts.
- Dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management.
- Traditional occupational work of sand by Vanjara and Oads in Gujarat
- Digging of well for irrigation or drinking water.
- Digging of foundation for buildings not requiring prior environmental clearance.
- Excavation of ordinary earth or clay for plugging of any breach caused in canal, nala, drain, water body, etc., to deal with any disaster or flood like situation upon orders of District Collector or District Magistrate.
- Activities declared by State Government under legislations or rules as non-mining activity with concurrence of the Ministry of Environment, Forest and Climate Change, Government of India.



# Framework of Mining and Sustainability

## -Role of Court

- Special Courts to be constituted ( Amendments in 2015)
- Samatha Case
  - Alienation of land for mining in Scheduled Areas in A.P.
  - Persuasive Value
- Balco Case
- Deepak Kumar v State of Haryana -order of Hon'ble Supreme Court dated the 27th February, 2012 in I.A. No.12- 13 of 2011 in Special Leave Petition (C) No.19628-19629 of 2009, prior environmental clearance has now become mandatory for mining of minor minerals irrespective of the area of mining lease;
- NGT Cases
  - National Green Tribunal, *vide* its order dated the 13th January, 2015
  - Himmat Singh
  - Pradeep Kumar





# Cases

- **Deepak Kumar etc. vs. state of Haryana & Ors.**(AIR2012SC1386 OR MANU/SC/0169/2012)
- **Samaj Parivartana Samudaya and Ors.**  
**Vs.State of Karnataka and Ors.** AIR2013SC3217 OR  
**MANU/SC/0397/2013-Bellary Matter**
- **Goa Foundation Vs. Union of India (UOI) and Ors.** **W.P. No.**  
**435 of 2012 OR MANU/SC/0388/2014**
- **Lafarge Umiam Mining Pvt. Ltd. Vs. Union of India (UOI) and Ors. Decided on: 06.07.2011**
- **( Doctrine of Margin of appreciation; Future Guidelines**
- **Independent Regulator?)**



# Mining, Environment and Development- Some Other Concerns

- Mining and Remediation
- Mining and effluents
- Mining and Handing Over
- Mining and Closure
- Mining Plan
- Mining and EMP
- Hydro-geological study
- Socio-economic survey
- R&R
- Offshore Areas Mining



THANK YOU

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