



## Mining and mineral sector -with special reference to barytes mining

P Jogi Naidu

Assistant Professor, Damodaram Sanjivayya National Law University, Visakhapatnam, Andhra Pradesh, India

### Abstract

Since the Stone Age, humans have relied on minerals for the development of civilization, and mining has been a part of this process ever since. Although mining has had a long and rich history, it has been dominated by a few with little consideration for environmental, community, or economic growth. People in mining areas are frequently indigenous and economically underdeveloped, therefore they tend to be more tolerant of the negative effects of mining. Mining for barytes is one such activity; India ranks second in the world for this mineral's production. India is endowed with the world's largest massive barytes deposit, which is located at Mangampet, Cuddapah district, A.P. So, this paper deals with mining laws in India and Andhra Pradesh with an overview of the mining and mineral sector in Andhra Pradesh with reference to the Mangampeta Barytes project.

**Keywords:** Mining, environment, community, economic growth, barytes, Cuddapah District, Andhra Pradesh, Mangampeta Barytes Project

### Introduction

There have been numerous disputes in India's non-fuel mineral sector over the past decade. Over-extraction and illegal ore sales have moved the sector to the forefront of policy debate. The Supreme Court of India, in particular, has been called upon to intervene in the problem, directing mining firms to correct their conduct. There have also been major policy reforms, such as amendments to the Mining and Minerals Development and Regulation Act in 2015, multiple amendments to the Environmental Impact Assessment Notification under the Environment Protection Act (1986) since 1986, and the formulation of a new National Mineral Policy in 2019, as a result of decisions by the judiciary<sup>[1]</sup>.

Regional exploration, thorough exploration, and actual mining are the three stages of the mining process. The primary purpose of regional exploration is to locate mineral-rich areas. Closely spaced drilling (depending on the mineral) and extensive testing may be required to establish commercially viable ore deposits in detailed exploration. Mining projects, "therefore, have a long gestation period requiring large investments in exploration and other development activities before commercial production can begin, and are thus considered as a high-risk venture for the reason that a prospector's investment may or may not result in finds of commercially exploitable deposits." The exploratory work of the Geological Survey of India (GSI) remains the primary basis for mining investment in India because there has been a dearth of foreign participation in such high-risk undertakings<sup>[2]</sup>.

The rising demand for metals and minerals around the world has resulted in an increase in both domestic and international mineral prices. In addition, the rapid expansion of the country's manufacturing sector necessitated an equally quick expansion of the mining industry, which is dependent on a reliable supply of ore.

### Regulatory Framework Relating to Mining in India

Union and State Lists of the Indian Constitution govern the management of natural resources, which are under the

purview of each government. Indian territorial waters and the EEZ belong to the central government, whereas state governments possess the minerals beneath the ocean that are located within those waters' jurisdictional boundaries. Legislative measures for regulating mines and minerals are developed in conjunction with state governments to ensure that there is basic uniformity in mineral administration and to maintain the pace of mineral development in accordance with national strategy.

Over the years, India's legal framework for the coal and mining industry has evolved. In the beginning, the system implemented to promote foreign and private investment in exploration, mining, and minerals was more socialist. Although private sector investment in this business began to rise gradually, it was not as effective as planned because many unknown regions remained. There was a need for legislation to reform the licensing system and include new sorts of permits that may be obtained to carry out this Act's objectives, such as reconnaissance permits and wide area prospecting licenses<sup>[3]</sup>.

A new national mining strategy, established in 2008 in light of the ineffectiveness of previous policies and legislative amendments, advocated for the integration of technology into mining to ensure optimal resource exploitation and to improve the commercial element.

### MMDR Act, 1957

MMDR Act, which was enacted by the central government in 1957, is the primary legislation governing the mining sector in India, apart from petroleum and natural gas<sup>[4]</sup>. To ensure that all minerals are developed, and mines are regulated, the MMDR Act provides the legislative framework. Minor minerals and significant minerals are two types of minerals. Among the minor minerals are building stones, gravel and clay as well as typical sand and shale. Coal, manganese ore, iron ore, and other industrial minerals are considered major minerals since they cannot be categorised as minor minerals. There were major alterations made to the MMDR Act by the "Mines and Minerals (Development and Regulation) Amendment Act 2015." The

primary goal of these reforms was to create a system for awarding mining concessions that was both open and non-discretionary.

The MMDR Act was further amended

- In 2016, mining leases granted outside of auction for captive consumption will be able to be transferred.
- In 2020 allow for the transfer of approvals, licenses and clearances (including environment and forest clearances) from the previous licensee to the new licensee for two years from the grant of a new lease, to ensure uninterrupted mining operations <sup>[5]</sup>.

Other than petroleum and natural gas, the MMDR Act provides the legal framework for the mining sector, together with the accompanying laws and regulations

#### **Mineral Concession Rules 1960 (MC Rules).**

They lay forth the structure for granting concessions, rejecting applications, keeping records, and reporting to the state governments, among other things. We can see how mineral concessions for a mining lease are granted in these rules.

#### **Mineral Conservation and Development Rules 2017 (MCD Rules).**

These guidelines lay forth the requirements for conducting mining operations in a way that is both scientific and environmentally friendly. All mining and mineral activities are now subject to federal regulation because of Section 2 of the Act's proclamation. This is not a matter over which the State Government alone has the power to make laws. Rulemaking is permitted by the State Government, but it is not permitted to establish legislation on the issue <sup>[6]</sup>.

#### **Mineral (Auction) Rules 2015 (Auction Rules)**

Concessions for key minerals can be granted through an online electronic auction if certain requirements are followed.

#### **Mines and Minerals (Development and Regulation) Act, 1957**

India's mining industry has been heavily regulated by a wide number of authorities, including the following

1. Ministry of Mines
2. Geological Survey of India, i.e., attached to the Ministry of Mines
3. Indian Bureau of Mines, i.e., Subordinate to the Ministry of Mines
4. Ministry of Environment, Forest and Climate Change
5. This legislation was enacted in 1957 to promote smooth mining operations by sticking to the goal of sustaining mining and allowing the mining sector to thrive. In spite of recent modifications to this Act, it is vital to first analyse these provisions to gain a fundamental understanding of mining regulations in this country.

#### **Offshore Areas Mineral (Development and Regulation) Act 2002 (OAMDR Act)**

It governs the exploitation of offshore mineral resources, including those in Indian territorial waters, the continent's shelf, and other exclusive economic zones.

#### **Offshore Areas Mineral Concession Rules 2006 (OAMDR Rules)**

These rules outline the process for granting and renewing offshore mineral rights concessions.

#### **Mines and Minerals (Contribution to District Mineral Foundation) Rules 2015.**

A mining lease or prospecting license/mining leaseholder must pay a fee to the District Mineral Foundation according to these rules.

#### **Foreign Direct Investment Policy, as amended from time to time (FDI Policy)**

Various sectors of the Indian economy, including the mining industry, are covered by India's FDI Policy. Every year the Ministry of Commerce and Industry, Government of India releases a new version of this document to keep up with changes in the regulatory environment. Growth and progress necessitate a certain amount of crime and unlawful activity. In the mining industry, the same is true. Illegal mining has grown in prominence in the mining industry during the previous decade. Environmentalists are still trying to remove illegal miners in places like Goa and Orissa, even though illegal mining has increased over the years.

In *Manohar Lal Sharma v. The Principal Secretary & Ors* <sup>[7]</sup>, Coal blocks allocated by the government in 1993 should be cancelled, according to the Supreme Court, because the Central Government's approach violated the MMDR Act due to its arbitrariness and lack of transparency. Further, in another case *Re: Natural Resource Allocation* <sup>[8]</sup>, In the Supreme Court's opinion, the practice of auctioning off natural resources is not a constitutional mandate, but rather a way for enterprises to raise money.

#### **Stable industry outlook**

India is one of the world's largest producers and exporters of barytes, making it one of the most important producers in the world. 80-85% of the barytes produced in the globe go into the oil and gas industry. Until petroleum products are favoured as a significant energy source due to their importance in transportation and industrial use, there will be a global demand for barytes. India, China Morocco are the major players in the supply of quality Baryte across the globe. With China's quantum of exports declining, owing to the increased usage of their own Shale Gas, the US market which was earlier dominated by China is not slowly moving to India and Morocco. Further, as Morocco has limited supply, India's share is increasing.

#### **Recent Developments in Mining Laws**

##### *Mineral Laws (Amendment) Act, 2020*

For the coal and mining industry to attain its full potential and attract foreign direct investment, the restrictions had to be liberalized. For this reason, the government was compelled to relax the MIMDR 2015 and MMDR 1957 prohibitions. To reduce coal imports and increase domestic and national production, the measure will authorize 100% foreign direct investment in coal mining operations.

#### **Features**

1. Coal purchased under Schedule II and III through auctions could only be used for end-use purposes such as power generation and steel manufacture under the former Act. Schedule II and III firms.

If the central government allows it, these enterprises can go on and carry out operations in their subsidiaries, for sale, or any other legitimate purpose.

- a. The previous Act recognized two categories of licences, namely, the prospecting and mining licences. This sort of lease is called a license-cum-mining lease because it allows the licensee to both prospect for coal and licence it. Non-exclusive reconnaissance licence holders can now apply for a prospecting and mining licence, unlike the previous Act, which did not allow them to do so.
- b. The old statute required new licensees to seek fresh statutory permissions prior to the start of mining activities. However, during the first two years, the old licensee's permits, licences, and clearances will be transferred to the successful bidder.
- c. This gives the central government complete control over the distribution and reallocation of terminated mining allotment orders, and they can name someone to act as a custodian of such orders until the mines are redistributed as desired.
- d. The previous Act stipulated that any licence, permission, or lease issued by the state government had to be approved by the federal government. There are several exceptions to this rule presently, such as where the federal government has already allocated funds or designated a mining block for resource conservation, which means that the state government does not need to seek clearance.
- e. The company's prior expertise in India's coal and mining industry has no bearing on its ability to compete in an auction there.

### Recent Changes

There are a wide range of environmental issues to be concerned about in light of the global shift away from fossil-fuel-based energy and India's efforts to capitalise on this shift by expanding demand and supply. By violating the Paris Agreement, India is endangering the health and safety of coal and mining workers who are exposed to poisonous gases in the hopes of drawing foreign investment into the industry. Over-exploitation of resources could be facilitated by increased competition and competition in the sector under the new Amendment.

In a recent case, "*Southwest Port Limited through its Unit Head & Authorized signatory Anthony Fernandes v State of Goa, through the Chief Secretary, Government of Goa, Secretariat & Others* Writ Petition No. 173 Of 2018<sup>[9]</sup>, the issue arose when" Goa's Ministry of Environment, Forest, and Climate Change rejected the petitioners' request for terminal entrenchment.

Petitioner's application was denied by MOEFCC, citing the National Green Tribunal's order that specifics of regulations do not meet with the National Green Tribunal's judgment. The Petitioner stated that the MEOFCC does not have the power to evaluate the merits of the application. In addition, he referred to all the other agencies that had approved the identical application. the Petitioner has failed to disclose several important facts and is endangering residents' health and safety if allowed to continue operating in this region, the Respondents have lodged preliminary objections to the Petitioner's continued operation. There were no special circumstances in favour of the Petitioner, so the High Court concluded that the Petitioner's goal is to extend their

activities at Port, despite the Petitioner's stated purpose being limited to a specific purpose. Although the Petitioner did not exhaust all its other options before turning to the High Court, the High Court can nevertheless hear a writ petition, depending on the Petitioner's conduct. Due to this, the Petitioner's claims were disregarded, and the writ petition was refused as a result.

### Conclusion and recommendations

The exploration, exploitation, and management of a country's mineral resources are critical to its long-term growth and development. A vital raw material and a valuable natural resource, minerals are essential to the country's industrial growth. Mineral markets around the world have grown in both variety and size because of increased competition, deregulation, and globalisation. Minerals and mining are an important part of India's economy, because of the country's abundance of mineral resources. As the country's economy continues to grow at an accelerated pace, the country's mining sector must grow as well. Mineral extraction and development are intertwined with other natural resources such as land, water, air, and forest. It is therefore critical for our country's well-being to ensure that this valuable resource is properly managed and put to best always use.

Barytes production in India is second only to China, and it is a major exporter in the global market. The petroleum industry uses over 80% of the world's barytes. Barytes will continue to be in high demand if petroleum products are the primary source of energy for transportation and industry. Even as hydrocarbon discoveries become more and more marginal and less productive, it is expected that petroleum exploration will continue to grow and barytes consumption would increase as a result. In India, however, exploration is needed to find additional barytes deposits in Rajasthan, Himachal Pradesh, and other states. For 2016-17, the predicted domestic demand for barytes is 2.09 million tonnes, with a growth rate of 9 percent.

There are rigorous regulations in place in developed mining countries to reduce the environmental impact of mining. In addition, there are measures for reclaiming and rehabilitating land that has been mined. In the early stages of the mine life cycle, the process of mine closure begins. Many international bodies have issued environmental guidelines for mining operations, and large mining firms have adopted codes of conduct and community development programmes that go beyond the requirements of law and regulation.

There are two key prerequisites for achieving long-term mineral development in India: excellent governance and self-regulatory mining companies that are both financially viable and committed to upholding high standards of social, ethical, and ethical business conduct are not yet fully in place. Mineral administration governance failure is a big issue. Multiple state and federal bodies, each with its own budget and staffing needs, are a contributing factor to India's mining sector's governance problems. The situation is made worse by political meddling and institutional corruption.

The most important need is to guarantee that existing mining and environmental regulations are administered in an efficient, effective, and purposeful manner. As proposed in the Draft MMDR Bill 2011, efforts should be made to bring about administrative reforms that will abolish the current dualism and make state government agencies

completely responsible and accountable for mineral management. Attention should be paid to the field-level arrangements. IBM should serve as a technical and advisory organization to assist state governments and the mining industry with their technological tasks under the reformed system. The federal government should support the states in developing and executing reform initiatives in the public interest. According to a recent report, there should be a significant reduction in the time needed to clear a project by streamlining multiple approvals and monitoring processes, including environmental and forest clearances. Mining operations in a specific region should not exceed the area's current social and environmental "carrying capacity" or infrastructure capabilities. To guarantee this outcome, certain administrative and procedural procedures must be undertaken. There should be a separate law for the closure of mines to ensure that the mining lease holder is legally obligated to land reclamation and restoration, as well as strict enforcement of the rules.

The actions taken to improve the mining sector would be welcomed. Such an appreciation, however, necessitates some form of supposition. There is a slew of issues that need to be addressed in detail to attain the aim of operational proficiency and successful use of national assets that this new Amendment addresses.

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