



# mines, minerals & PEOPLE

Date: 19-02-2021

**Dr Veena Kumari Dermal**

Joint Secretary

Through Shri Mustaq Ahmad, Director

Government of India

Ministry of Mines

Room 313, D-Wing, Shastri Bhawan

New Delhi 110001

**Subj: Your public Notice dated 23.1.2021 on the draft Mineral (Auction) Amendment Rules, 2021.**

Dear Dr Dermal,

We refer to your notice dated 23 January 2021 wherein you have sought comments within a period of 13 days, ie, 5<sup>th</sup> February 2021 on a proposal to amend the Mineral (Auction) Rules 2015 to provide an incentive for early extraction from auctioned off leases. This is our second communication on the subject.

Reflecting the Constitution of India, the National Mineral Policy 2019 declares “*Natural resources, including minerals, are a shared inheritance where the state is the trustee on behalf of the people to ensure that future generations receive the benefit of inheritance.*” It goes on to say that “*State Governments will endeavour to ensure that the full value of the extracted minerals is received by the State.*”

Minerals are great wealth, our family silver. The goal of the trustee is to ensure the corpus of the trust is kept whole in real terms. Extractors are simply outsourced service providers helping convert inherited mineral wealth into financial wealth. In most cases, extraction results in the sale of this mineral wealth to the extractor, with royalty and auction premia as the consideration.

The present proposals concern recommendations of a High Level Committee (HLC) headed by Vice Chairman, NITI Aayog, on mines, minerals and coal sectors constituted by the Government for enhancing exploration and domestic production, reducing imports and achieving rapid growth in exports. The recommendation specifically dealt with in this communication amounts to how we can, in effect, speed up the sale of the family silver by reducing the price for an early sale through a 50% rebate of the auction bid premia.

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The NMP 2019 states: **“A unified authority in the form of an inter-ministerial body under Ministry of Mines, with members like Ministry of Coal, MoEarth Sciences, MoEFCC, Ministry of Tribal Affairs, Ministry of Rural Development, Ministry of Panchayati Raj, Ministry of Steel, including state governments, shall be constituted to institutionalise a mechanism for ensuring sustainable mining with adequate concerns for environment and socio-economic issues in the mining areas, and to advise the Government on rates of royalty, dead rent etc.**

*This proposed mechanism shall also decide the limits on the extent of mining activities that should be permitted which would, inter alia, involve undertaking a detailed study for **assessing what should be the 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.”*

While the inter-ministerial body is yet to be constituted as per NMP 2019, it is surely inappropriate for a High Level Committee to make recommendations on issues like royalty rates, and for the Ministry to accept and move forward in implementing such recommendations. The NMP 2019 clearly provides for a different mechanism. What is the point of the NMP 2019 if it is to be ignored, or its provisions cherry-picked? This can only increase uncertainty and distrust with the government, which goes against the ease of doing business.

Most importantly, the NMP 2019 requires states to recover the full value of their minerals. It would only be appropriate that the extractor be required to pay all sums due to the mineral bearing state, and the Union government provide this incentive for early sale of the family silver through a direct benefit transfer to the extractor under the Finance bill. The Union government should explicitly budget this amount and disclose actual amounts rebated.

If the government decides to incentivize the early sale of the family silver by imposing such a rebate, then the Union government must reimburse the mineral bearing states, and disclose the rebate in the statement of revenue foregone. The states – as trustees on behalf of the people and especially future generations – must ensure the full value of the mineral is received, whether from the extractor, or in this case from the union government, to the extent of any rebate forced on them.

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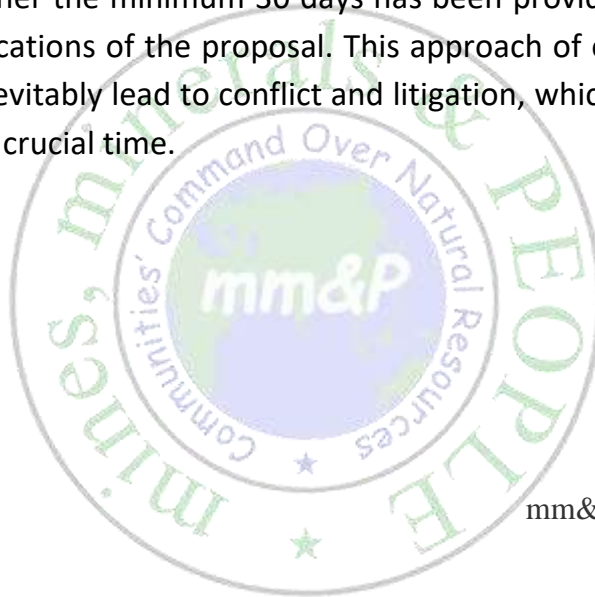
Finally, as you are aware, Section 4(1)(c) of the Right to Information Act, 2005 provides that “Every Public Authority shall publish all relevant facts while formulating policies or announcing decisions which affect public.” Further, the Pre-Legislative Consultation Policy (PLCP)<sup>1</sup> of the Government of India provides “The Department/Ministry concerned should publish/place in public domain the draft legislation or at least the information that may inter alia include brief justification for such legislation, essential elements of the proposed legislation, its broad financial implications, and an estimated assessment of the impact of such legislation on environment, fundamental rights, lives and livelihoods of the concerned/affected people, etc. Such details may be kept in the public domain for a minimum period of thirty days for being proactively shared with the public in such manner as may be specified by the Department/Ministry concerned.”

We write to protest as neither the minimum 30 days has been provided, not is there any analysis of the broad financial implications of the proposal. This approach of opaqueness -- while ignoring law and procedure – will inevitably lead to conflict and litigation, which can only be counter to the needs of the country at this crucial time.

Best wishes

Rebbapragada Ravi

mm&P Chairperson



Ashok Shrimali

mm&P Secretary General

<sup>1</sup> <http://legislative.gov.in/documents/pre-legislative-consultation-policy>

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