

Background to Major and Minor Minerals

Schedule I under MMDR Act specifies major minerals in Part C of the schedule. These are 10 in number. In an amendment dated 20.12.1999, entry 8 i.e. Limestone has been deleted from the list of non-fuel minerals as per 1999 notification / amendment which means 10 non-fuel minerals require permission of central government. Minor minerals means the minerals other than the minerals specified in First Schedule and these therefore become a state subject and are also defined in sec. 3(e) of MMDR 1957.

[THE FIRST SCHEDULE]

SPECIFIED MINERALS

PART C. Metallic and Non-Metallic Minerals

1. Asbestos.
2. Bauxite.
3. Chrome ore.
4. Copper ore.
5. Gold.
6. Iron ore.
7. Lead.
8. []
9. Manganese ore.
10. Precious stones.
11. Zinc.]

For administration of minor minerals, Ministry of Mines, Government of India has prescribed Minor Mineral Concession Rules to be formulated at the state level. Within these rules, minor minerals are specified under different categories or simply a list of minor minerals is provided. Section 15 of the MMDR Act 1957 gives power to the state governments to make rules in respect of minor minerals. Each state, must therefore have Minor Mineral Concession Rules. It is in conjunction with these minor mineral rules that the provisions may facilitate more local governance

Exception: The term ‘ordinary sand’ used in Section 3(e) of MMDR Act, 1957 has been further clarified in rule 70 of the Mineral Concession Rules, 1960 as “sand shall not be treated as minor mineral when used for any of the following purposes namely; (i) purposes of refractory and manufacture of ceramic, (ii) metallurgical purposes, (iii) optical purposes, (iv) purposes of stowing in coal mines, (v) for manufacture of slivicrete cement, (vi) manufacture of sodium silicate and (vii) manufacture of pottery and glass,

Where do we see Relevance of PESA and Mining?

This can be taken as an example where, prior information on the purpose for which mineral is to be used becomes important. Although PESA model rules have been framed by the Central

Government, most of the states still have to make changes to the allied laws to enable application of PESA. PESA therefore, demands a Free-Prior-Informed-Consent in a manner which will enable Gram Sabha or the Gram Panchayat to enable consultation and provide recommendations prior to granting of concessions or auctions in respect of minor minerals in the following manner;

Relevance & Role of Gram Sabhas in Regulating Mining

Gram Sabha has a role in recommending quarry lease which is mining lease for minor minerals or quarry permit under which mineral has to be extracted in certain time i.e. auction. Prospecting licence (PL) is a stage where the miner will ascertain economic value of mineral and some physical work will be involved. So prior information on PL will give an indication that mining may take place in future, so the Gram Sabha can be involved from this stage. Where PL is not needed i.e. where there are good prospects, quarry lease or permit is applied for where Gram Sabha can put conditions, revenue sharing as per MMCR rules etc. A brief is provided below;

- **Prior Information to Take Decisions:** To make any consultation fruitful, prior information is essential. Information about mining in the respective village to be notified on the information board of the respective local authorities. The state mining department issues notification of areas for which auction is invited, in such cases, there may be different policy directions at the state level which may have a royalty sharing provisions, like the case of Madhya Pradesh, Chhattisgarh etc.
- **Environment Protection:** Mine Closure plans or the Sustainable Development Framework (SDF) so reached at should be complied with to which the Gram Sabha can play a monitoring and compliance role to decide about the future land use so desired and needed after the mine is closed. This is also for environmental protection of areas where mining is proposed. Similarly, Gram Sabha level FRC have to be formed and there is compatibility with FRA
- Checking illegal mining as well as compliance to the conditions under which the mining lease / quarry licence has been approved. [whistleblowers]. Most of the states are framing rules for curbing illegal mining and transportation, the powers to issue notice and penalties are with the state and district machinery but considering this as a breach of conditions to which the miner agreed with the Gram Sabha, it is well within the domain of Gram Sabha to notify or take action with consensus and knowledge of other line departments.
- **Protection of Rights of People:** IN ADDITION TO SECTION E: **Private lands & Surface Rights** For e:g, if the mining where minerals vest in private land, the miner has to take surface rights over the land upon the willingness of land owner is important. This grant of surface rights is given by the Collector of District concerned but if prior recommendation of gram sabha is sought, it would look into livelihood issues, benefit sharing or compensation agreed upon etc. and in other terms protect the rights of affected before the rights are granted to the miner. Similarly in case of lands where minerals vests in Government land, the Gram Sabha can give its considered opinion on protection of

rights of people over the land either traditional or otherwise. Gram Sabhas, if given adequate powers can recall and intervene in processes to restore unlawfully alienated lands to tribal landowners.

Mining / Quarry Lease for Minor Mineral and Quarry Permit / Auction

PESA, for democratic governance provides for consultation with and recommendation of Gram Sabha / Panchayat. This thus has an in-built mechanism or process of sharing of such information that may enable such consultation as well as recommendation on the subject.

The following procedure shall be followed for securing recommendations of Gram Sabha for grant of prospecting license or mining lease for minor minerals and grant of concession for the exploitation of the minor minerals by auction:-

- Any authority may award prospecting license, mining lease for or concession for exploitation of minor minerals by auction only in consultation with Gram Sabha.
- The authority concerned that proposes to sanction a prospecting license or mining lease or grant of concession for minor minerals by auction should compulsorily make available to the Gram Sabhas within whose jurisdiction the proposed mining area falls, all relevant information prior to grant of prospecting license/mining lease/ concession. This information should, among others, contain:
 - (i) The manner in which the interests of the village community will be affected;
 - (ii) Measures to safeguard the livelihoods of the persons in the affected zone;
 - (iii) Measures to augment the resources of the community through a stake in the revenue; and
 - (iv) A careful assessment of the economic, environmental and social impact on the affected persons.
- After considering the above information, the Gram Sabha may make its recommendations.
- The Gram Sabha may impose conditions for protecting the environment, employment, etc in all cases.
- The recommendations of the Gram Sabha shall be binding unless they are reversed by a competent authority for reasons to be recorded in writing and approved by the State Government.