MINERAL INHERITORS RIGHTS ASSOCIATION

28.8.2020

**Dr Veena Kumari Dermal**

Director

Government of India

Ministry of Mines

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**Subj: Violation of Pre-Legislative Consultation Policy (2014) and Right to Information Act in the proposed mining reforms**

Dear Dr. Dermal,

This is with reference to the notice that has been uploaded on Ministry of Mines website on 24-August-2020 seeking public comments on substantial matters of reform of mineral laws, rules and regulations within a period of 10 days, i.e, 3-Sep-2020. It is a matter of great concern to us on the deadline mentioned in the notice. This is to bring your kind attention that wherein 30 days is provided for a local level public consultation, you have provided only 10 days for the proposed mining reforms that is extremely crucial and would have huge implications across the country. Such decisions cannot be taken in haste when the State governments have not yet been consulted and a 10-day period for the States to respond undermines the federal spirit of this nation. This is not even enough time to seek information under the RTI Act to evaluate the proposals meaningfully. We note that this violates the Pre-Legislative Consultation Policy (PLCP) of the Government of India, especially point 2 of the decisions taken in the meeting of the Committee of Secretaries held on 10-January-2014[[1]](#footnote-1).

Your notice proposes changes as follows:

1. Changing norms for exploration for auction and seamless transition from exploration to production
   1. Auction of G-4 blocks for seamless exploration and prospecting
   2. Private entities in exploration work (regional exploration)
   3. Private exploration funded by NMET
2. Resolving legacy issues u/S 10A(2)(b) and 10A(2)(c), reimburse exploration costs under NMET
3. Removing distinction between captive and non-captive mines
   1. All future blocks not earmarked
   2. Removing first right of refusal for captive miners
   3. Raising limit of 25% of production for merchant use to 50%
4. Creation of a National Mineral Index
5. Clarify definition of illegal mining – u/S 21(4), 21(5) and to be prospective
6. Rationalize stamp duty
7. Focus DMF on creating tangible assets, as per Parliamentary Standing Committee – amendment to Section 9B
8. Bring unused blocks into production to generate employment – time limit to achieve production, both for private and public sector
9. Make NMET truly autonomous; entities notified u/S 4(1) eligible for NMET

In order for a meaningful analysis, the wording of the proposed changes to the laws / rules / regulations should have been provided.

We would further like to point out that 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*”. At a minimum, the following data should be provided for aiding proper decision making by the public:

1. Status of employment in mining of major minerals, both by lease as well as over time.
2. Status of exploration: A detailed status of exploration at various levels, including classification of blocks into G1, G2, etc
3. Status of mineral inventory: A detailed mineral inventory must be published giving each ore body location and other details. Where these are within existing mining leases, this information should also be provided.
4. Current status of grant of major mineral leases, exploration status, approved production levels, actual production of minerals and actual employment from such leases.
5. A list of all “potential leases” that are “blocked in legacy cases” under Sections 10A(2)(b) and 10A(2)(c), exploration status, reserves, lessees and the litigation and status thereof.
6. List of all captive mines with full details that would be impacted by changes to the limits of production that can be sold. It is also important to provide a list of all non-captive mines since those will also be impacted by this change.
7. A list of illegal mining cases over the last decade that would fall under the two categories, ie, illegal mining done outside leasehold areas and mining in violation of various clearances and approvals inside a mining area.
8. Stamp duty laws of various states, amounts collected by way of stamp duty, and the extent of change in state revenue from the proposed change.
9. On the DMF, the relevant section from the Parliamentary Committee should have been made available, along with analysis to what extent DMF monies have been used for tangible assets versus other uses. There should have also been some analysis why an amendment is required instead of a notification under Section 20A of the existing PMKKKY.
10. A list of unused blocks along with the allottee and the time that it has been unused would be necessary to comment on the recommendations
11. A list of the entities notified under Section 4(1) of the MMDR Act should have been made available. It is not clear if it is intended that any entity with a mineral lease would be eligible for using NMET funds, or just the entities named in the second proviso

All the source data, calculations and conclusions should be made available to the public prior to asking for comments.

And finally, since most of the minerals are in areas most in need of employment generation, it would have been appropriate to have the notice available in languages spoken in those areas, at a minimum, the official languages of the affected states.

We urge you to kindly address the concerns stated above and sincerely hope that such policy changes and decisions follow a robust democratic process where the citizens of this country are considered as the primary stakeholders.

Best wishes

Saswati Swetlena

National Coordinator

(On behalf of Members of the Steering Committee, Mineral Inheritors Rights Association)

(*Mineral Inheritors Rights Association is an association of several civil society groups and networks in India working to ensure democracy, social justice, equity, transparency, and accountability in governance*)

1. <http://legislative.gov.in/documents/pre-legislative-consultation-policy> [↑](#footnote-ref-1)