

# The Odisha Gazette

**EXTRAORDINARY  
PUBLISHED BY AUTHORITY**

---

---

**No. 1946 CUTTACK, TUESDAY, OCTOBER 9, 2012 / ASWINA 17, 1934**

---

---

No. 7264—IV (AB)-SM-10/2011-SM.

GOVERNMENT OF ODISHA

**DEPARTMENT OF STEEL & MINES**

—  
RESOLUTION  
—

The 3rd October 2012

Mining is vital for the economy of the State. The State being the owner of the mineral resources shall have to ensure that the mineral resources are applied for the overall development of the community. The State also has the responsibility to the future generations in so far as the mineral conservation and the development is concerned.

2. Mineral resources are finite and non-renewable. It is, therefore, imperative to take timely and appropriate steps to derive the maximum benefit for the community while the mineral resources are still available for exploitation. The State Government perceived value addition as an effective means for achievement of the aforesaid objective as value addition of minerals within the State helps in (a) creation of large number of jobs (b) collection of greater revenues and (c) in attracting ancillary and downstream investments. It is as such with such understanding the Government invited investors to invest in industry based on minerals.

3. So far, the Government have executed more than 50 MoUs for establishment of steel plants and alumina refineries. A majority of these projects have commenced production. However, they are grappling with issues pertaining to availability of raw material.

4. It is, therefore, necessary to authorise second and subsequent renewal of the mining leases keeping in view the foregoing considerations and the extant law on the issue.

5. Renewal of a mining lease shall have, among others, the clearance of Government of India under the Forest (Conservation) Act, 1980 and the Environment (Protection) Act, 1976, consent to operate under Water and Air Acts and approved mining plan under Mineral Conservation and Development Rules, 1988 and the lessee shall not have indulged in the violations of the provisions of the Mines & Minerals (Development & Regulation) Act, 1957 and the rules made thereunder, including the lease covenants which is not remediable under the extant law or the lessee does not remedy the breach within the time allowed thereunder.

6. The State Government while authorizing second and subsequent renewal of mining lease is mandated under sub-section (3) of Section 8 of the Mines and Minerals (Development and

Regulation) Act, 1957 to satisfy itself fully that such renewal would be in the interest of mineral development. The reasons for which the State considers that the second renewal would be in the interest of mineral development are also to be reflected un-ambiguously in the order authorizing the renewal. The Supreme Court of India in the case of *Tata Iron and Steel Co. Ltd ect.-Vrs.- Union of India with Industrial Development Corporation of Odisha Ltd.-Vrs.-UOI and others* in their judgment, dated the 23rd July 1996 (AIR 1996 SC 2462) have *inter alia* in Para. 33 held as follows :

33. “xxx xxx To us, the language of S. 8 (3) is quite clear in its import. Ordinarily, a lease is not to be granted beyond the time and the number of periods mentioned in clauses (1) and (2). If, however, the Central Government is of the view that to allow a lessee’s lease to be renewed further would be in the interest of mineral development, then it is empowered to-do-so, provided there exist on record sound reasons for such an action and those reasons are recorded. Since such a measure has been incorporated in the legislative scheme as a safeguard against arbitrariness, the letter and spirit of the law must be adhered to in a strict manner.”

7. In the said case, the Apex Court have also dealt the relevance of the criterion of captive requirement of mining industries and the principle of equitable distribution of mineral wealth to the concept of mineral development under the said Section 8 (3) of the Act and held in Para. 62 as under :

- “62. We are, therefore, of the view that the committee had correctly interpreted the relevant material available for appreciating the concept of “mineral development” and adopting the stance that it encompassed the concept of captive mining as well as the principle of equitable distribution.”

The Court, accordingly, upheld the authorization of second renewal by the Central Government for a reduced area in favour of the lessee going by the recommendations of the Committee set up the said Government for the purpose.

8. Article 39(b) of the Constitution of India requires the State to direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to sub-serve the common good. As concentration of mineral wealth in the hands of a few will not sub-serve the common good, the State is duty bound to ensure equitable distribution of mineral wealth while granting second and subsequent renewal.

9. Hence, second and subsequent renewals cannot be claimed as a matter of right. There must be sufficient reasons to say that such renewal is in the interest of mineral development. Captive mining and the principle of equitable distribution, among others, shall be considered as guiding factors for such renewal, except in case of leases held by a company or corporation owned or controlled by Union or State Government. The reasons are to be recorded by the State Government and reflected in the order authorizing the renewal.

10. The State Government has, therefore, after careful consideration, been pleased to resolve that the following, among others, may be considered as ingredients of “mineral development” for the purpose of Section 8 (3) of the Mines and Minerals (Development and Regulation) Act, 1957 for minerals like iron ore, manganese, chromite and bauxite except in case of leases held by a company or corporation owned or controlled by Union or State Government :

- (i) The mineral from the mining lease is being used for captive purpose by the lessee. The area to be renewed shall be limited to the captive requirement of 30 years of the existing

capacity of the mineral industry of the lessee. Allotment of more area than required for captive use to a lessee other than the State would not be serving the interest of mineral development. The industry shall be in existence at the time of authorisation of renewal of the lease. The balance area shall be reserved for Odisha Mining Corporation, a PSU wholly owned by the State Government under Section 17A(2) of the MMDR Act, 1957 with the approval of Central Government for supply of ore to end use industries within the State. While determining the mineral ore available to the lessee for captive use, the mineral resources of all the leases held by the said lessee in the country will be taken into consideration.

- (ii) The lessee must have properly prospected the mine to know the actual reserve of the mine by dedicating a reasonable fraction of investment to scientific prospecting and subsurface exploration to the geologically visualised depths of ore bottoming.
- (iii) The lessee must have taken definite visible steps for comprehensive environmental management for the area to reduce environmental degradation and for reclamation and restoration of the lease area.
- (iv) The lessee must have complied with the relevant provisions of the extant laws governing mining including but not limited to MMDR Act, 1957, Mines Act, 1952, Environment (Protection) Act, 1976, Forest (Conservation) Act, 1980 and rules made thereunder in the matter.

11. Leases awaiting second and subsequent renewal but operating under Rule 24A (6) of Mineral Concession Rules, 1960 will also be covered by the above policy decision and each of such case would be reviewed and decided in a time bound manner. In such cases, the raising may be limited to the captive consumption till a decision is taken for renewal of part or whole of the lease area depending upon the reserve assessed as per the special condition imposed by the Government of India under sub-rule (3) of Rule 27 of the said rules vide notification No. 10/75/2008-MV, dated the 23rd December 2010 *vis-a-vis* the captive requirement for 30 years. Such prospecting may be completed within the time allowed by the Government of India under the said special condition.

---

ORDER—Ordered that this Resolution be published in the extraordinary issue of *Odisha Gazette*.

Ordered also that copies of the Resolution be forwarded to all Collectors/all R.D.Cs./the Private Secretary to Minister, Steel & Mines/Private Secretary to the Chief Secretary, Odisha/Private Secretary to A.D.C./D.C./Director of Mines, Odisha/Director of Geology, Odisha/all Departments of Government/all Heads of Departments for information.

RAJESH VERMA

Principal Secretary to Government