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LEGAL ISSUES AROUND MINING

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ABSTARCT

Mining can be defined as the process of extracting minerals, metals and other valuable resources and assets for manufacturing of different goods which are further used for different purposes. The process of mining involves locating the land as well as extracting the minerals by using technologies available to mankind. Mining plays an important role in the development of economy and society. It provides job and financial assistance to the people in need. Mining is also responsible for meeting the global demands for minerals metals and other raw materials. Most probably, the primitive humans won't have developed to the modern society without mining as the first weapons and tools were made out of iron and copper. Energy output also heavily depends on mining, especially in nations with abundant coal reserves. In India and other countries, coal is a significant energy source for the production of electricity. Construction, production, technology, and transit are just a few of the sectors that use the metals and minerals that are mined. Resources like silver, gold, copper, coal, iron ore, and gems are frequently extracted. Some of the different forms of mining are open-pit mining, underground mining, and placer mining. Although mining is crucial to economic growth, it can also have negative effects on the ecosystem and society. Deforestation, land erosion, river pollution, and the eviction of local populations are some of these effects. So that it is carried out in a viable and ethical way, mining is frequently subject to rules and supervision. This article aims to focus on the legal rules and supervision that mining is currently subjected to in its national aspect.

KEYWORDS: Mining, minerals, sustainability, environment, indigenous rights

INTRODUCTION

India is one of the fastest developing economies of Asia as well as the world. In order to meet the demands of development of the economy, India needs to meet its energy needs. These needs can only be met by using minerals, which can be found deep within the layers of earth and can be extracted through the process of mining. Mining as such is a major economic activity in India and contributed to approx. 2 percent of country's GDP. India is the leading country for the extraction of minerals like iron ore, coal and bauxite. India also accounts for the production of 95 minerals, which include

- Fuel related minerals- 4
- Metallic minerals- 10
- Non-metallic minerals- 23
- Atomic minerals- 3
- Minor minerals- 55

Mining laws have started developing in India from the 19th century itself. In fact, the first proposal for mining laws came in the 1890s, where inspector of mining was appointed for the first time in order to regulate and supervise mining activities. The first mine act was enacted in India in the year 1901. However, the act restricted itself to the colonial British India. Finally, in the year 1952, the mining act was enacted and applicable all over India. Over time, mining laws have developed all over the country and different states have different mining laws under power. The topic of legal issues related to mining is very important, as there are many companies and industrialists which do not compliance with the legal

framework related to mining in India. This neglect leads to the arousal of various legal issues related to the field of mining, which include environmental, corporate, individual rights, safety etc and other related issues.

OVERVIEW OF MINING LAWS IN INDIA

1. **The Mineral Laws (Amendment) Act 2020:** This amends the Coal Mines (Special Provisions) Act 2015 and the Mines and Minerals (Development and Regulation) Act 1957 (MMDR Act). (CMSPA). The MMDR Act was amended to, among other things, allow State governments to act in advance for the auction of a mining lease before it expires, automatically transfer the previous lessee's approvals, licenses, and clearances to the new tenant for a period of two years following the grant of the new lease, and allow non-exclusive reconnaissance permit holders to apply for other licences. The CMSPA changes are intended to increase domestic coal output and decrease reliance on imports. Coal block sales are open to businesses with no prior expertise in coal extraction or other types of mining. Additionally, the modification lifts end-use limitations on businesses that mine coal according to CMSPA.
2. **The Occupational Safety, Health and Working Conditions Code 2020 (OSH Code):** Under the OSH Code, the federal government recently consolidated the existing Indian labour rules pertaining to employees' safety, health, and working circumstances in a variety of establishments, including mines. The OSH Code, among other things, establishes standards for worker protection and working circumstances in mines. On a date that will be announced by the federal government, the OSH Code will go into force. After notification, it will take the position of the Mines Act of

1952 and the Mines Rules of 1955. (Mines Rules).

3. **National Mineral Policy 2019:** The National Mineral Policy of 2008 is replaced by this regulation. The policy was implemented with the intention of implementing sustainable mining methods, improving enforcement and openness. The policy offers chances for entrepreneurs to engage in exploratory activities as well as incentives to draw private investment and innovative technology via rights of first choice at bidding. The policy also places a focus on enhancing the regulatory framework through the incorporation of e-governance systems to: prevent illegal mining and value leakages; facilitate end-to-end accounting of mineral ore in the supply chain.
4. **The Mineral Conservation and Development (Amendment) Rules 2018:** These regulations are meant to prevent the output of minerals from being impacted by the expiration of current mining licences. According to the regulations, general exploration (G2) must be completed by 1 April 2019 for any mining licences used for non-captive reasons and ending in March 2020 (aside from coal, lignite, and atomic minerals). In order to guarantee a smooth transfer upon the expiration of current mining licenses, the amendment also specifies deadlines for the execution of exploration plans.
5. **The Mineral (Auction) Amendment Rules 2017:** The bidding procedure for major minerals was accelerated by the notification of these regulations on November 30, 2017. (Other than coal, petroleum and natural gas). According to the revised rules, block assignments must be flexible in the following round rather than delaying until the final round, as was customary under the previous rules, which led to the annulment of a

sizable number of blocks. The net-worth prerequisite for bids has also been loosened.

6. **Coal Mines (Special Provisions) Act 2015 (CMSPA):** The central government authorised the CMSPA's formula for the distribution of coal mines by bidding and the allocation of coal for sale in an order dated February 27, 2018. The price offered in Rupees per tonne to be charged to the state's government on coal output serves as the bid criterion in the rising forward auction that the CMSPA envisions. One of the biggest changes to the coal industry since it was nationalised in 1973, this revision allows for the private sector to participate in commercial coal extraction.
7. **Ban on illegal mining in the State of Goa:** Two additional renewal of mining licences issued by the government of Goa that were granted to violation of the relevant legislation were quashed by the highest court of India in February 2018. The Court ruled that new mining leases—not renewals or other renewals—and new environmental permits must be given in line with the Mines and Minerals before mining activities in the State can recommence.

ENVIRONMENTAL LAWS RELATED TO MINING

There are 4 principle environmental laws that are involved with mining activities in India. They are:

1. the Environment (Protection) Act 1986 (EPA);
2. the Forest (Conservation) Act 1980;
3. the Water (Prevention and Control of Pollution) Act 1974; and
4. the Air (Prevention and Control of Pollution) Act 1981.

The Central and State Pollution Control Board and the Ministry of Environment, Forestry, and Climate Change (MoEF) are the main regulating agencies. The Indian Bureau of Mines and the state administration both have mining

regulations, specifically. Some examples of the act enacted are: In order to prevent environmental degradation and preserve the otherwise uncared-for environment, exploration licences or mining contracts may be terminated under Section 4A of the Mines and Mineral (Development and Regulation) Act, 1957. The mineral development element of mines is covered in Section 18 of the Mines and Mineral (Development and Regulation) Act, 1957. It must be done sustainably, and the central authority must take steps to guarantee that the same is upheld. According to Section 20A of the Act, the state government is required to follow any instructions given by the federal government regarding the preservation of the environment from mining operations.

The government has taken a number of measures to guarantee that the environmental damage brought on by these mines is minimised to the greatest extent possible and that the mine proprietors are held accountable for the damage they have caused. The two main laws that have provisions relating to environmental protection and mining surveillance in India are the environment protection (Amendment) Act of 2006 and the Forest Conservation Act of 1980. According to Article 48A[2] of the Indian Constitution, the government must take action to preserve the environment, guarantee that there are adequate protections to protect the country's wildlife and forests, and enhance the environment. In the instance of L.K. Koolwal vs. the State of Rajasthan, the High Court of Rajasthan was the one to first execute this.

The Indian government has taken the actions stated above for the following reasons:

1. by enforcing stringent rules and laws, to stop the pollution at its source.
2. Present an issue with the best technological answer you can come up with, and urge others to come up with any other workable ideas.
3. to make sure that the polluter pays for the pollution that they produce so that

they are deterred from polluting in the future.

4. in order to clean up the nation's severely contaminated atmosphere.
5. Limiting the amount of pollution that is discharged into waterways and other aquatic bodies
6. to use resources provided by the government to put environmental preservation strategies into practise

HEALTH AND SAFETY REGULATIONS

In instances where miners have a legitimate claim to state protection, the Indian government appointed a commission in 1895 to draught appropriate rules and laws for their security. In 1896, the group turned in its final report. The first Mine Act in India was passed as a result of this study and went into force on March 22, 1901.

In order to safeguard the rights of the labourers in mines, the government enacted the following legislations

1. MINES ACT 1952

The Mines Act of 1952 includes provisions for the welfare, health, and protection of miners who labour in coal, oil, and metalliferous mines. The Act's provisions state that it is the owner's responsibility to oversee the management of mines, mining activities, and miner health and safety. The legislation also specifies the minimal wage rate, the number of working hours in mines, and other pertinent details. The Directorate General of Mines Safety is in charge of enforcing this Act on behalf of the Ministry of Labour and Employment. It is the government's regulating body in charge of overseeing mine and oil field safety. The primary goal of DGMS is to improve safety and health standards while lowering the danger of occupational illnesses and injuries for those who work in mines. For this reason, they conduct routine checks of mines to monitor the

level of safety and look into mishaps and complaints.

2. CONSTITUTION OF INDIA

- article 24: No kid under the age of fourteen may be hired to work in a factory, mine, or involved in any other dangerous job, according to Article 24 of the Indian Constitution.
- article 39: Article 39(e) speaks that the state shall directs its policy towards securing the health and strength of workers, men and women , and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength.
- article 42: Article 42 of Indian Constitution says that the state shall make provisions for securing just and humane conditions of work and for maternity relief.

CONCLUSION

From the article, it can be safely concluded that mining has it own pros and cons. Some of the key legal issues in mining are Environmental regulations: Mining activities can have significant environmental impacts, including water pollution, soil erosion, and deforestation. As a result, mining companies must comply with a range of environmental regulations, including laws related to air and water quality, waste management, and habitat protection. Health and safety regulations: Mining activities can be dangerous, and workers are exposed to a range of hazards, including accidents, injuries, and occupational diseases. Mining companies must comply with a range of health and safety regulations, including laws related to worker safety, equipment maintenance, and emergency response.

Indigenous rights: Many mining activities take place on lands that are traditionally owned or

used by indigenous communities. As a result, mining companies must comply with a range of laws related to indigenous rights, including laws related to consultation, consent, and compensation. Social license to operate: In addition to legal requirements, mining companies must also obtain a social license to operate from the communities in which they operate. This requires building trust and engaging with local stakeholders to address their concerns and ensure that their rights and interests are protected. Corporate social responsibility: Mining companies are increasingly expected to operate in a socially and environmentally responsible manner. This includes investing in sustainable practices, supporting local communities, and respecting human rights. While these issues are not necessarily legally required, failure to address them can result in reputational damage and loss of business. There are various ways through which these issues can be tackled. Some of them are

1. MINING TECHNIQUES WITH A LOWER IMPACT

The environment can be severely impacted by conventional mining methods, and some common techniques, such as open pit and subterranean mining, pose some of the greatest environmental dangers. Mining firms can lessen their effect on the environment by switching to new, low-impact mining methods, like in-situ leaching. Companies can considerably lessen surface disruption at mining sites, lower soil erosion, and shift less material that would need to be backfilled by utilising many of these methods. By lessening interference, a location can be prepared more quickly for revegetation or restoration and with less effort on the environment.

2. QUITTING UNLAWFUL MINING

Illegal mining is still a major problem for the sector; for instance, 14,000 individuals are reportedly presently engaged in it in

South Africa, according to experts. There, illegal mining frequently takes place without respect for laws that lessen the environmental effect and on properties not suitable for large-scale mining. Preventing illegal or uncontrolled mining activities can help guarantee responsibility and the application of the same environmental standards to all mining.

3. RENEWAL OF MINING SITES

Numerous contemporary mining practises seriously harm the environment, including removing the topsoil layer essential for plant development and increasing water and soil acidity, which makes the area unsuitable for new flora and leaves it vulnerable to soil runoff. What's worse is that this degradation frequently keeps happening years after a mining firm has packed up and left. As a consequence, many abandoned mine sites are no longer useful to industry, are not accessible to landowners, and in some instances, are almost completely inhospitable to plant and animal life. However, there is no assurance that this harm will last forever. Numerous land restoration methods can be used by businesses to restore the productivity of mined land or quicken the land's natural recovery. For instance, dirt that has been drained can be replenished using biosolids.

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