

ISSUES RELATED TO ENVIRONMENT IMPACT ASSESSMENT NOTIFICATION 1994 VIS-A-VIS MINING INDUSTRY

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INTRODUCTION

Mineral exploitation (mining) is second only to agriculture as world's oldest and most important industry. Mineral and mineral based products are integral part of the economic and social fabric of modern society. Mineral are basic input for the production of metals, ceramics, fertilizers, chemicals and wide varieties of other vital commodities. Energy minerals such as coal, petroleum are equally essential for sustenance of life.

India is having some of the largest reserves of coal, lignite, iron ore and bauxite. India could boast of tremendous potential in mining sector for incoming millennium. Liberalization and opening of 50% foreign equity in joint ventures and opening 13 metals to private sector have opened up new opportunities for entrepreneurs. Unfortunately India's GDP claims only 3.5% as the value of mineral production. This low share in GDP of mineral industry shows an indication of the huge potential in this sector.

Mining being a basic industry, its progress is very important for overall industrial growth of the nation. In our opinion we cannot achieve the targeted growth rate in case mining industry is given lesser importance than any other basic industry like agriculture, steel, power, ports, etc.. Keeping above facts in mind, all necessary encouragement must be given by all concerned Government agency, whether it is initial prospecting license, lease for mining land for mining or infrastructural facility.

The continual increase in the population coupled with the industrial revolution has the inevitable impact of stretching natural resources beyond their capabilities. The resultant deterioration of the environment and fast depletion of the natural resources threatens the sustainability of economical development. One of the most complex challenges facing our generation is to search and evolve a workable synthesis between economic and environmental realities. Environmental laws play crucial preventive as well as remedial measures and are prime catalyst for promoting environmentally responsible behaviour. There has been a proliferation of environmental laws, in India after "Stockholm Conference on Human Environment" in June, 1972.

Though the intention of various legislation is laudable, the implementation of the provision has been tardy and cumbersome and resulting in delay in project clearance thus slowing down industrial development.

Attempts are made in this paper to highlight the issues concerning mining industry vis-a-vis Environment Impact Assessment Notification 1994.

ENVIRONMENT IMPACT ASSESSMENT NOTIFICATION 1994

Central Government issued Environment Impact Assessment Notification on 27th January 1994 which states "Central Government imposes restriction and prohibitions on the expansion and modernization of any activities or new projects being undertaken in any part of India unless environment clearance has been accorded by the Central Government or State Government in accordance with the procedure specified in that notification".

This was a general notification for all types of projects. As we are aware mining is site specific and has to be undertaken where the minerals exist. The unpalatable geological truth is that mining is planned around and not planned for. Therefore within one year of EIA notification, Government of India had to issue a press note on 31st August 1994 giving clarification of EIA notification specifically to mining industry.

1. Site clearance for prospecting and exploration of major minerals in area above 500 Ha.

2. Site clearance for mining projects involving major mineral with leases in excess of 5 Ha in area.
3. Environmental clearance for mining projects involving major minerals with leases in excess of 5 Ha area.

For renewal of the leases it was further clarified that:

1. Environmental clearance will not be required at the time of renewal if there is no increase in originally sanctioned lease area.
2. Environmental clearance will not be required at the time of renewal in cases where expansion is envisaged if the lease area doesn't exceed 5 Ha. Even after expansion.

In April 1997 Government of India issued a notification making public hearing mandatory for obtaining environmental clearance.

ISSUES CONCERNING MINING INDUSTRY

L Public Hearing

(a) For new leases

As per EIA Notification, 1994 Ministry of Environment stated that comments of public may be solicited, if so recommended by IAA within 30 days of receipt of proposal in public hearing arranged for the purchase after giving one month notice of such hearing in at least two newspapers.

This reflected an understanding of the fact that public hearing was only necessary in certain situations. With regard to mining projects the requirement of public hearing is relevant and feasible only in the cases covering larger area. For smaller mining leases the requirement of public hearing is neither necessary nor feasible from logistical and economic point of view.

(b) Lease renewal

In the case of renewal of mining leases, no matter what is the size there is no need for a public hearing as various environmental impacts caused due to projects are taken into account when the lease is granted. This is also kept under constant scrutiny by Indian Bureau of Mines at the time of approval and during each of the five yearly review of the mining plan, which also covers Environment Management Plan (EMP). Also, consents to operate mines are obtained from State Pollution Control Boards under Air and Water Acts. State Pollution Control Boards monitor environmental performance of mines on monthly basis and consents are renewed at every two years.

Mining is a unique industry wherein project site is determined by location of deposit. It is unchangeable. Sometimes medium of public hearing becomes a forum where parties with vested interests in the local community are given opportunity to delay or stop a mining project simply to meet their own objectives.

As per the process of public hearing described in schedule IV it is mentioned that the State Pollution Control Board shall issue a notice for environmental public hearing which shall be published in at least two newspapers. However no clear time-frame is specified of how soon after receipt of the necessary documents public hearing is to be held. In addition, while it is mentioned that "Suggestion, views, comments and objective of the public shall be invited within thirty days of publication of the notification", it is not clearly specified how soon after the publication of the notification the public hearing will take place. These non-specific directives can end up in further delay and difficulties in obtaining environmental clearance.

2. Complex Legislative Requirement

Mining in India is regulated under the Mines and Mineral (Regulation & Development) Act, 1957, amended in 1994. Mineral Concession Rules 1960 and the Mineral Concession and Development Rules 1988. All these rules have provision for environment preservation and protection while carrying out mining operations. In addition there are four main environmental acts related to the mining industry namely Water (Prevention and control of Pollution) Act 1974 (amended in 1988), The Air (Preventive and Control of Pollution) Act 1981 (amended

1988). The Environmental Protection Act 1986 (with rules 1986 and 1987) and Forest Conservation Act, 1980 (amended in 1988).

The question that arises is that apart from very lengthy and elaborate environmental clearance procedure, a mining company has to seek clearance from above acts. It is required that all the above laws and regulations could be effectively incorporated into a single law on environmental protection related to mining industry so as to have specific technological and administrative guidelines for effective implementation. A single window clearance policy should be implemented with one agency for monitoring and evaluation thereby avoiding duplication of work.

3. Lack of Co-ordination and Uniform Standards

As stated above there are host of legislation, regulating mining operation for environmental protection. However lack of co-ordination and uniform standard between various enforcing agencies, not only delays the project clearance but also adds to duplication of work, which is of little use in actual preservation of environment. For instance guidelines issued by Indian Bureau of Mines for environment impact assessment are different from that of Ministry of Environment and Forest. The monitoring and reporting structure for both the agencies is also different even though the regulations are enacted with one aim of environment protection. It is observed that interpretation of guidelines also differ from one agency to an other and many a times locations or ground conditions are not taken into consideration. In cases where mine leases are located adjacent to each other, buffer zone of one mine is core zone of other. The buffer zone criteria of MOEF is different from the buffer zone guideline given by IBM.

There is a need for industry specific as well as location specific standards. As stated earlier mining has to be planned around and not for, thus while enforcing environmental standards, location of mine, weather conditions must be taken into consideration. Unfortunately there are no industry specific standards for mining thereby mining is compared as "bad boy" while measuring environmental parameters like suspended particulate matter, suspended solids etc.

4. Uniform Applicability and Holistic Approach

The environmental protection measures, ought to be applicable uniformly to all units in particular line of operations at any particular place whether belonging to the private corporate sector, the state public sector or medium scale sector. The environmental performance of the sector should be the sole criteria while granting environmental clearance and encouragement should be given to those companies who have demonstrated progressive role in environment management.

Holistic approach is required whether evaluating a mining project for forest clearance or environment clearance. It is often observed that while granting forest or environmental clearance unrealistic conditions are imposed without understanding total concept of mining industry. Mining is a process of selection and hence there is always a rejection. For effective planning for mining especially overburden management, additional area is required. However there is tendency to restrict lease area and also impose such conditions that makes effective environment management a herculean task.

It should be understood that the fundamental difference between the disturbance of the ecological balance by industrial development vis-a-vis mining is that while the construction of big dams or an industrial township drives away the animals and other living beings, inflicting unaccountable harm to flora and fauna of the area and destroying means of sustenance of local inhabitants, mining activities primarily located in rural areas provide means of sustenance for local population. Also mining is a temporary use of land and at a time only fractional area out of the total lease area is put into use. Mining doesn't mean permanent loss of land for other use. On the other hand, it holds the potential for altered and improved uses apart from its restoration for agricultur, forestry and irrigation. Many mining companies have demonstrated that rocky barren area before mining could be converted into lush green forest and horticultural orchards. Therefore, the magnitude and nature of problem has to be correctly understood and appreciated. It is necessary, therefore that environmental measures should be carefully but realistically enforced. Procedures must be reviewed periodically so that the delays in grant of mining leases and environmental clearance are avoided.

CONCLUSION

Mining industry is aware of its responsibility towards environment protection. It is not averse of taking measures for environment protection and it is keen to play a proactive role in spite of various constraints.

Some people in industry name it as 'environmentalism excess' in place of 'environment protection'. Nobody in mining industry denies that our environment which includes water, air, land, needs protection. There have been some neglect from mining industry in the past but for mistake of past, present and future mining industry cannot be sacrificed.

As we all know minerals cannot be manufactured by human beings, they are a natural occurring conglomerate of elements, and it should be exploited in a planned and scientific method with minimum possible degradation of environment, for overall progress of the nation and its people. Let me put it in a very pragmatic way how important mining industry is to our nation. Soon we are going to have the dubious distinction and achievement of becoming the most populated nation in the world. How we are going to meet the three basic needs of our people that is **roti, kapda and makan**. Let me tell you we cannot meet these basic needs, unless we exploit our mineral wealth to its full potential.

Since we do the mining wherever minerals are deposited by nature, it becomes a site specific industry. Is it possible to mine iron ore in Rajasthan (not available) and marble in Goa? Is it possible for us to import all our requirement (1 billion people) steel, food, power, building material, cement, etc., and do we have enough foreign exchange to import it?

Legislative programmes should be drawn up realistically in consultation with industry so that obligations can be discharged in a judicious manner. There should be national industry wise norms/standards laid down, taking into full cognizance their feasibility and providing a framework for state Government to modify them location wise and in the light of intensity of pollution. This needs to be industry and location specific and all units irrespective of the sector to which they belong, ought to be treated in a uniform manner.

Nations were always exporting whatever they could spare after meeting their own requirements. If we do not grow industrially, we will be left with nothing else to export than human labour, which is already taking place. As we know very well, this will be objected to by all other nations, in the name of culture, colour, race, religion.

Keeping these facts in mind, a balance has to be worked out between environment and mining industry, both need full protection by us.