

## CHAPTER-IV

### Management of leases

**4.1** The Central Government may, by Gazette notification, make rules for regulating the grant of prospecting licences and mining leases in respect of minerals and for purposes connected therewith. Similarly, the State Governments are empowered to make rules for regulation of mining activities in respect of minor minerals.

For management of mining leases, the Central Government had enacted the MMDR Act, 1957; and framed MC Rules, 1960 and MCD Rules, 1988. Whereas, Minor minerals in Rajasthan, are regulated under RMMC Rules, 1986.

#### 4.2 Grant of leases and execution of agreements

In National Mineral Policy, 2008, Government of India expressed concern on procedural delays in granting lease/licence in mining sector. However, the period, within which the applications received for grant of leases should be disposed of, had not been mentioned in MCR or RMMC rules.

**4.2.1** We found that 2,24,792 applications received up to 31 March 2009 for grant of lease/licence were pending, of which 1,95,515 quarry licence applications received in AME, Balesar during 2007-08 were pending due to delay in their screening. This adversely affected the exploitation of

minerals and development of mineral industries and simultaneously revenue realisation of the Government. The position was as under:

Mineral	Number of pending applications			
	Mining lease	Prospecting licence	Quarry licence	Total
Major	7,475	1,675	-	9,150
Minor	14,296	333	2,01,013	2,15,642

The Government stated (August 2010) that applications had been pending due to non-completion of formalities pertaining to revenue records, obtaining no objection certificates from Collectors and Forest Department *etc.* Government also mentioned that most of the pending applications were for quarry licence of mineral sandstone pertaining to AME, Balesar and these will be disposed of early.

No time frame has been prescribed for disposal of applications for the grant of mining leases, quarry licences *etc.* Further, we noticed that there is lack of co-ordination among Departments.

**4.2.2** We observed that in five ME/AME offices<sup>3</sup> 1027 major/minor leases/areas were available for re-grant due to cancellation and surrender of leases and quarry licences. Available leases/areas were not re-granted, which led to loss of dead rent ₹ 2.07 crore annually, besides blocking of mineral development.

#### 4.3 Non-conversion of masonry stone leases to sand stone leases

Lease areas of masonry stone sanctioned near village Jhajawara, Chokha, Gagana and Rohila Kalan had high potential for mineral sand stone; therefore, the State Government decided (24 April 2007) to convert the existing leases from masonry stone to sand stone by charging conversion charges ₹ 25,000 per hectare. In case, the lessee did not apply for the conversion of the lease, than his lease of masonry stone was to be cancelled after issuing 15 days show cause notice to him.

We found (January 2010) from the records of ME, Jodhpur that in the above mentioned villages, out of 38 existing leases of masonry stone (each lease measuring one hectare), having potential for mineral sand stone, only 5 lease holders got converted their leases for mineral sand stone. The holders of remaining 33 leases did not apply for conversion of leases, but their leases were not cancelled by the ME. It resulted in loss of revenue of ₹ 21.29 lakh due to non-receipt of conversion charges amounting to ₹ 8.25 lakh (33x25000) and difference dead rent amount of ₹ 13.04 lakh for the year 2007-08 to 2008-09.

On pointed out (January 2010), the ME, Jodhpur stated (March 2011) that in this regard a committee has been constituted by the DMG.

#### 4.4 Non-adherence to Government instructions

Rule 32 of the RMMC, Rules envisages that RCC/ERCC may be granted by tender in respect of such area and mineral as the Director may order. The State Government issued instructions in May 1962 stipulating that if any tenderer, to whom a contract was allotted, defaulted in its execution, the Mines Department could recover contract damages from him, provided that such a clause was incorporated in the “tender notice” itself. The deposit made by the defaulting tenderer could be forfeited first, thereafter, loss, if any, over and above the amount of deposits forfeited, would be recoverable from the defaulting contractor.

We noticed that the State Government instructions dated May 1962 were not incorporated by the Mines Department in tender notices published for grant of excess royalty collection contracts. In the office of the ME, Jodhpur, tenders were invited for ERCC for minerals limestone and rhoylite for the period between 10 March 2005 and 26 February 2008. The highest tenderers M/s Mahadev

and Party, M/s Boranda Truck Operator Union and Sh. Mangi Lal Choudhary, who were awarded the contracts, defaulted in execution of the contracts and

<sup>3</sup> Ajmer, Jodhpur, Nimbahera, Rajsamand I and Sikar.

therefore, three contracts were re-tendered and ultimately granted to subsequent tenderer at lower rates. In absence of contract damages clause in the notice inviting tenders, the damages in the form of less realisation of tender, could not be recovered from the defaulters. This resulted in loss of revenue amounting to ₹ 4.13 crore (after adjusting security deposits amount ₹ 0.52 crore).

The Government stated (September 2010) that e-tendering system would be adopted and second lowest tender will be accepted if it was within ten *per cent* less of the highest tender amount. However, we have not received reasons for non-inclusion of contract damage clause in the tender notices.

#### 4.5 Illegal transfer of leases

We found (January 2009) from the records of the DMG and ME, Rajsamand I that two mining leases number 224/92 and 165/93 of mineral marble were transferred in January 2003 to a person (transferee) on the basis of false date of birth certificate. The person being minor at the time of transfer of the leases, as per the Indian Contract Act, the agreements executed in January 2003 were treated (11 July 2008) as “null and void” by Mines Department. Thus, the mineral excavated/despached 7,385 MT from both leases during the period from January 2003 to July 2008, was illegal and required recovery of cost of mineral ₹ 1.08 crore.

When we pointed this matter/case, ME Rajsamand I and ME Amet, both accepted the observations and stated that efforts were being made to recover the cost of illegal excavated/despached mineral. However, the Government stated (August 2010) that matter would be reviewed.

#### 4.6 Recommendations

- *The Government may create an effective co-ordination mechanism among various Departments.*
- *The Government may specify a time frame for disposal of applications for grant of mining leases. Guidelines may be issued for granting fresh leases in case of surrendered and cancelled leases. A system of receiving no objection certificates from different Departments of the Central/State Government for timely execution of sanctioned leases may be evolved.*
- *The State Government may consider inclusion of contract damage clause in tender notices.*