

CHAPTER - VI

NON-TAX RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present results of audit of ‘Receipts from Mines and Minerals-A review’ which highlights the audit findings involving financial effect of ₹ 23.85 crore.
Trend of receipts	The collection of receipts from Non-ferrous Mining and Metallurgical Industries consistently increased over the budget estimates during the period from 2008-09 to 2012-13 and also the percentage of contribution in the total non-tax receipts increased substantially during the period 2010-11 and 2011-12 over the previous years but marginally decreased in 2012-13 over the year 2011-12, which needs to be looked into.
Impact of audit conducted by us during 2012-13	<p>In the course of audit of records of 36 units relating to receipts from Non-ferrous Mining and Metallurgical Industries during the year 2012-13, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 85.46 crore in 199 cases.</p> <p>The Department accepted non/short levy, non/short realisation of revenue and other deficiencies of ₹ 4.44 crore in 23 cases, out of which six cases involving ₹ 1.94 crore were pointed out during 2012-13 and the rest in earlier years.</p>
Our conclusion	<p>The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future.</p> <p>It also needs to take appropriate steps to recover the amount involved, at least in the accepted cases.</p>

CHAPTER-VI: NON- TAX RECEIPTS**Non- Ferrous Mining and Metallurgical Industries****6.1 Tax administration**

Bihar State has minor minerals like sand, stone and earth and a few major minerals like Limestone, Mica and Silica etc. Receipts from mines and minerals in Bihar comprise royalty, dead rent, surface rent, application fee for lease/permit/prospecting licence, pre-survey licence, penalty, fine and interest for delayed/belated payment of dues etc.

6.2 Trend of receipts

The variation between budget estimates and actual receipts from Non-ferrous Mining and Metallurgical Industries during the period 2008-09 to 2012-13 along with the total non-tax receipts during the same period is mentioned below:

Table- 6.1

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total non-tax receipts(col.-6)
1	2	3	4	5	6	7
2008-09	140.00	245.00	(+)105.00	(+)75.00	1,153.32	21.24
2009-10	180.00	319.93	(+)139.93	(+)77.74	1,670.42	19.15
2010-11	294.00	405.59	(+)111.59	(+)37.96	985.53	41.15
2011-12	280.00	443.10	(+)163.10	(+)58.25	889.86	49.79
2012-13	470.00	511.08	(+) 41.08	(+) 8.74	1,135.27	45.02

(Source: Revenue and Capital Receipt (Detail): Finance Accounts, Government of Bihar)

The above table indicates that the collection from Non-ferrous Mining and Metallurgical Industries was consistently more than the budget estimates during the period 2008-09 to 2012-13. The percentage of contribution of receipts from Non-ferrous Mining and Metallurgical Industries in the total non-tax receipts increased substantially during the period 2010-11 and 2011-12 over the previous years but marginally decreased in 2012-13, which needs to be looked into by the Mines and Geology Department.

6.3 Impact of audit**6.3.1 Status of compliance to Audit Reports (2007-08 to 2011-12)**

During the years between 2007-08 and 2011-12, we have pointed out audit observation involving ₹ 23.41 crore in respect of receipts from mines and minerals through our Audit Reports. The Department/Government accepted audit observations involving ₹ 13.77 crore of which an amount of ₹ 5.75 lakh only was recovered as on 31 March 2013 as mentioned below:

Table- 6.2

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2007-08	2.38	0.46	Nil
2008-09	2.00	1.31	Nil
2009-10	4.46	4.46	Nil
2010-11	5.53	2.62	Nil
2011-12	9.04	4.92	0.06
Total	23.41	13.77	0.06

The above table indicates that the recovery in respect of the accepted cases was meagre (0.44 *per cent*) as compared to the accepted money value.

The Government may make efforts to recover the amount involved in accepted cases at the earliest.

6.3.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, we have pointed out, through our inspection reports, non/short levy, non/short realisation of revenue etc., with revenue implication of ₹ 573.97 crore in 889 cases in respect of receipts from mines and minerals. The Department/Government had accepted audit observations in 453 cases involving ₹ 357.74 crore. However, the Department reported recovery of only ₹ 53.51 lakh against the accepted cases. The details are shown in the following table:

Table- 6.3

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovery	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	26	77	51.48	42	25.97	3	0.49
2008-09	44	220	93.47	202	89.46	Nil	Nil
2009-10	33	175	230.45	145	218.09	1	0.03
2010-11	48	240	118.18	18	2.06	1	0.02
2011-12	25	177	80.39	46	22.16	Nil	Nil
Total	176	889	573.97	453	357.74	5	0.54

The negligible recovery of ₹ 53.51 lakh (0.15 *per cent*) against the accepted cases indicates lack of promptness in recovery of the Government revenue.

The Government needs to take necessary steps for prompt recovery of the amounts involved at least in the accepted cases.

6.3.3 Status of compliance to Inspection Reports (2012-13)

In course of audit of records of 36 units relating to receipts from Non-ferrous Mining and Metallurgical Industries during the year 2012-13, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 85.46 crore in 199 cases which fall under the following categories:

Table- 6.4

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	‘Receipts from Mines and Minerals- A review’	1	23.85
2.	Non-realisation of royalty	45	23.59
3.	Non-levy of penalty for illegal removal of brick earth	17	3.72
4.	Loss due to non-levy of fine for continued contravention	9	1.34
5.	Non-levy of penalty against works contractor for illegal procurement of minerals	27	3.25
6.	Non/short levy of dead rent/surface rent	3	1.45
7.	Others	97	28.26
TOTAL		199	85.46

During 2012-13, the Department accepted non/short levy, non/short realisation of revenue and other irregularities *etc.* involving ₹ 4.44 crore in 23 cases, out of which six cases involving ₹ 1.94 crore were pointed out during 2012-13 and the rest during the earlier years.

Audit findings of the Review on **‘Receipts from Mines and Minerals’** with financial impact of ₹ 23.85 crore are mentioned in the succeeding paragraphs:

6.4 “Receipts from Mines and Minerals - A review”

Highlights:

The State of Bihar has not framed a State Mineral Policy along the lines of the Model State Mineral Policy, 2010 circulated by the Central Government.

(Paragraph 6.4.2)

Internal control mechanism was weak due to absence of internal audit, non-maintenance of vital basic registers and inadequate inspection by the departmental officers.

(Paragraph 6.4.9)

Penalty of ₹ 12.26 crore for illegal procurement of minerals against the works contractors in four districts, though leviable, was not levied.

(Paragraph 6.4.12)

Penalty of ₹ 16.45 crore for mineral excavation without approval of Mining Plan was not levied.

(Paragraph 6.4.13)

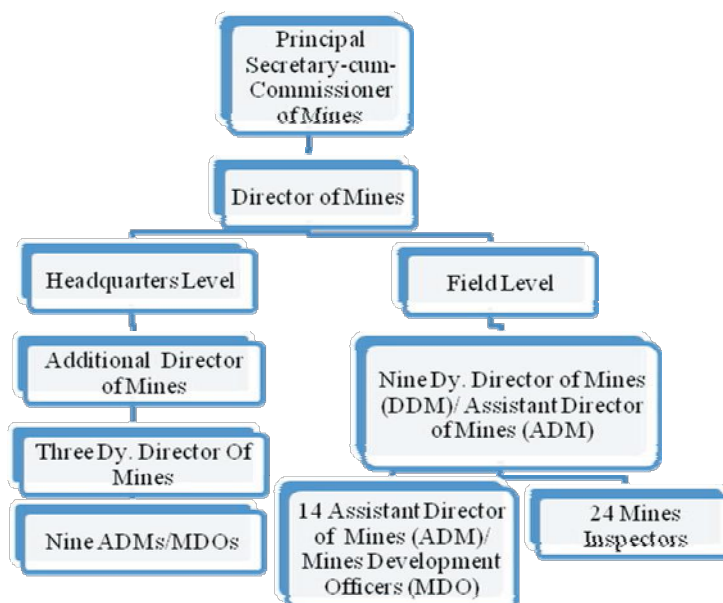
Royalty of ₹ 64.86 lakh was short realised for excess dispatch of stone in three districts.

(Paragraph 6.4.18.3)

6.4.1 Introduction

Minerals are divided into two categories i.e. major and minor minerals. Minor minerals include building stone, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes and any other mineral which the Central Government may by notification declare to be minor mineral. In addition, earth and brick earth are also included in minor minerals. All other minerals such as limestone, mica, silica etc. as available in Bihar are termed as major minerals.

The Principal Secretary-cum-Commissioner is the administrative head of the Mines and Geology Department. He is assisted by the Director of Mines. The organisational chart of the Department is given below:



(Source: Administrative Report of the Department)

As evident from the chart above, at the field level, there are 14 ADMs/MDOs who hold independent charge of the districts, whereas 24 Mines Inspectors (MIs) are under the control of the Collector in the districts. All these officers along with the Collector, who is the chief officer in-charge of revenue administration of a district, are responsible for assessment, levy and collection of royalty and other mining dues in the 33 mining districts¹. The DDM of a circle is the appellate authority and is vested with the powers of certificate officer for recovery of the mining dues.

6.4.2 State Mineral Policy

A model State Mineral Policy was circulated (December 2009) to all the State governments requiring them to develop their mineral policies considering local requirements within the ambit of the National Mineral Policy. Further, the Hon'ble Supreme Court in its judgement (February 2012) had also directed

¹ Aurangabad, Banka, Begusarai, Bettiah, Bhagalpur, Bhabhua, Bhojpur, Buxar, Darbhanga, Gaya, Gopalganj, Jamui, Jehanabad (includes Arwal), Katihar, Khagaria, Lakhisarai, Madhubani, Madhepura, Motihari, Munger, Muzaffarpur, Nalanda, Nawada, Patna, Purnea (includes Araria and Kishanganj), Rohtas, Samastipur, Saharsa (includes Supaul), Saran, Sheikhpura, Sitamarhi, Siwan and Vaishali.

the State Government that mining of minor minerals be carried out only under approved framework of mining plan, which should provide for reclamation and rehabilitation of the mined out areas. The Union Ministry of Mines along with Indian Bureau of Mines and respective State governments should therefore make necessary provisions in this regard and adopt model guideline within a period of six months. However, the Government of Bihar has not developed any mineral policy on the lines of State Mineral Policy even after lapse of four years.

After we pointed this out, the Government stated (October 2013) that in pursuance of the Hon'ble Supreme Court's judgement (February 2012), new sand policy had already been made. Further, amendment in Bihar Minor Mineral Concession (BMMC) Rules is under process and thus there was no need to formulate separate mineral policy. The facts remain that the State Government had not yet framed comprehensive mineral policy emphasising scientific method of mining conservation and mineral development with protection of environment, rehabilitation of displaced and affected person in conformity to the National Mineral Policy, as circulated by the Central Government in the year 2009, even after lapse of about four years.

We recommend that the Government may frame a comprehensive Mineral Policy for both minor and major minerals in order to exploit minerals scientifically for the long-term economic development of the State.

6.4.3 Audit Objectives

The Review was conducted to ascertain whether:

- the internal control mechanism of the Department was effective and sufficient to safeguard the Government revenue;
- the Acts/laws/provisions relating to mining operation and realisation of revenue were properly adhered to and the Government revenue was correctly assessed, levied, realised and credited into Government Account and
- the environmental and ecological aspects had been taken care of.

6.4.4 Audit Criteria

The Audit criteria for the Review have been derived from the following sources:

- Mines and Minerals (Development and Regulation) (MMDR) Act, 1957.
- Mineral Concession (MC) Rules, 1960.
- Mineral Conservation and Development (MCD) Rules, 1988.
- Bihar Minor Mineral Concession (BMMC) Rules, 1972.
- Bihar Financial Rules, Volume-I.
- Bihar Budget Procedures (BBP).
- Indian Registration Act, 1908.
- Bihar Minerals (Prevention of Illegal Mining, Transportation and Storage) (BMPIMTS) Rules, 2003.
- The Bihar & Orissa Public Demands Recovery (PDR) Act, 1914.
- Environment (Protection) Rules, 1986.
- Air (Prevention & Control of Pollution) Act, 1981.

6.4.5 Scope and Methodology

Ten² out of 33 mining districts of Bihar were selected for this review on the basis of availability of minerals in the districts, covering the period from 2008-09 to 2012-13. Out of nine Deputy Director of Mines (DDM) offices, three DDMs³ were selected on the basis of revenue generated by districts under their jurisdiction. Besides, office of the Director of Mines, being the controlling office at the headquarter level was also selected. The review also contains cases which came to notice during compliance audit. The review was conducted between May and July 2013.

Audit methodology includes preparing guidelines, conducting field visits for examination of records, collection of data from the Department, issue of audit memos, questionnaires and obtaining replies from audited entities to arrive at the audit conclusions.

An entry conference was held with the Principal Secretary, Mines and Geology Department on 26 April 2013 wherein we explained objectives, scope and methodology of audit. The exit conference was held on 9 October 2013 in which the findings of the review were discussed. The Joint Secretary represented the Government whereas the Department was represented by the Additional Director. The views of the Government have been suitably incorporated in the respective paragraphs.

6.4.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Mines and Geology Department in providing the necessary information and records to Audit.

6.4.7 Trend of revenue

6.4.7.1 Budget formulation

As per Rule 54 of the Bihar Budget Procedure (BBP) the estimates of revenue and receipts should show the amounts expected to be realised within the year. In estimating fixed revenue for the ensuing year, the calculation should be based upon the actual demand, including any arrears due for past years and the probabilities of their realisation during the year. The arrears and current demands should be shown separately and reasons given if full realisation cannot be expected. In the case of fluctuating revenue, the estimate should be based upon a comparison of the last three years receipts.

We observed in May 2013 from the actual receipts from mines and minerals appearing in the Finance Accounts, Government of Bihar that there was wide variation between Budget estimates and actual receipts during the period 2008-13 as given in the table below:

² Begusarai, Bhagalpur, Bhojpur, Gaya, Lakhisarai, Motihari, Munger, Patna, Rohtas and Vaishali.

³ Gaya, Munger and Patna.

Table- 6.5

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation	Percentage of variation
2008-09	140.00	245.00	(+)105.00	75.00
2009-10	180.00	319.93	(+)139.93	77.74
2010-11	294.00	405.59	(+)111.59	37.96
2011-12	280.00	443.10	(+)163.10	58.25
2012-13	470.00	511.08	(+) 41.08	8.74

(Source: Revenue and Capital Receipt (Detail), Finance Account, Government of Bihar)

The above table indicates that the actual receipt from mines and minerals were higher by 37.96 per cent to 77.74 per cent than the Budget estimates (BEs) during 2008-12, while in 2012-13, the BE was substantially increased by 68 per cent over the BE of previous year.

6.4.7.2 Reconciliation of revenue figures

Rule 37 of the Bihar Financial Rules stipulates that it is the responsibility of the departmental officers to see that all sums due to the Government are regularly and promptly assessed, realised and duly credited in the public account and compare them with the records of the Accountant General (A&E) to see the amounts as realised have been duly credited in Public Account.

We observed in May 2013 from the revenue collection statement furnished by the Department and those appearing in the Finance Accounts, Government of Bihar that there were differences in the figures of receipts shown in the Finance Accounts and the receipts reported by the Department as given in the table below:

Table- 6.6

(₹ in crore)

Year	Target	Receipts (as per Finance Account)	Receipts (as per Department)	Variation (4-3)	Amount reconciled (Percentage in bracket)
1	2	3	4	5	6
2008-09	164.09	245.00	180.92	64.08	Nil
2009-10	209.35	319.93	263.48	56.45	12.29 (3.84)
2010-11	295.82	405.59	314.18	91.41	69.05 (17.02)
2011-12	375.01	443.10	377.28	65.82	112.47 (25.38)
2012-13	510.47	511.08	465.51	45.57	50.16 (9.81)

As indicated in the table, the variation of the actual receipts shown in the Finance Accounts and those reported by the Mines and Geology Department ranged between ₹ 45.57 crore and ₹ 91.41 crore during 2008-13. It was further observed that only 3.84 per cent to 25.38 per cent of receipts (as per Finance

Account) were reconciled with the records of the Accountant General (A&E) during 2009-13.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that direction had been issued at regular interval for reconciliation of revenue figures.

In response to similar issue pointed out in Paragraph 6.2.18 of the Audit Report (Revenue Receipts) for the year ending 31 March 2007, the Department issued instructions to all the DMOs/AMOs for reconciliation. Despite this, irregularity is still persisting which shows ineffectiveness of the internal control system of the Department.

We recommend that the Department should take effective steps to ensure reconciliation of the revenue collection figures with the accounts of the Accountant General (A&E) including the amount remitted by book transfer.

Audit Findings

The audit findings noticed in course of review of 'Receipts from mines and minerals' are discussed in the succeeding paragraphs:

6.4.8 Arrears of revenue

6.4.8.1 Arrears pending collection

As per details furnished by the Mines and Geology Department, the year-wise break-up of the arrear of revenue is as mentioned below:

Table- 6.7

(₹ in crore)

Year (upto)	Opening balance	Addition	Total Arrears
2008-09	97.25	32.13	129.38
2009-10	129.38	16.19	145.57
2010-11	145.57	8.18	153.75
2011-12	153.75	21.77	175.52
2012-13	175.52	25.17	200.69

The arrears of revenue in respect of receipts from mines and minerals as on 31 March 2013 was ₹ 200.69 crore, of which ₹ 97.25 crore was outstanding for more than five years. Further, out of the total arrears of ₹ 200.69 crore, a sum of ₹ 184.59 crore was covered under Revenue Recovery Certificate proceedings. The Department did not inform the stages at which the remaining arrears were pending and at the same time the age-wise analysis could not be done as information in this regards was not provided by the Department despite request.

6.4.8.2 Position of certificate cases

Under Rule 7 of the Bihar Financial Rules (BFR), it is the duty of the controlling officer concerned to see that the dues of the Government are correctly and properly assessed, collected and paid into the treasury.

As per Rule 37 of Bihar Minor Mineral Concession Rules, the amount of rent, royalty, penalty shall be recoverable as a public demand under the Bihar & Orissa Public Demands Recovery (PDR) Act. Under paragraph 6 of Certificate Manual, the requiring officer (RO) and the certificate officer (CO) are jointly responsible for the speedy disposal of certificate cases.

We observed in May 2013 from the report on status of the certificate cases in the office of the Director of Mines, Patna that a sum of ₹ 132.50 crore involved in 22,094 certificate cases was pending as on 31 March 2013 in all three selected DDM offices and three district mining offices as detailed below:

Table- 6.8

(₹ in crore)

Sl. No.	Name of the office	No. of pending cases	Amount involved
1.	DDM Gaya	4,861	34.86
2.	DDM Munger	2,751	29.97
3.	DDM Patna	10,289	52.25
4.	MO Vaishali	1,311	3.68
5.	MO Bhagalpur	603	2.79
6.	MO Motihari	2,279	8.95
Total		22,094	132.50

There were 22,094 certificate cases involving ₹ 132.50 crore pending as on March 2013 under aforesaid DDMs and three MOs. However the DDM, Patna had issued Distress Warrants⁴ in 397 cases and sent to Police Department. The responsibility for execution of Distress Warrants lies mainly with the Police Department. There was nothing on records (*kurki/warrant files*) to show whether the Distress Warrants were executed or not. Report on similar action taken if any in other offices has not been received. The age-wise data was not provided by the Department despite request.

We recommend that the Government may frame a time bound programme and monitoring for disposal of certificate cases and recovery of the Government dues.

⁴ A distress warrant authorises a court officer to distrain or seize property.

6.4.9 Internal control mechanism

The internal control mechanism is intended to provide reasonable assurance of proper enforcement of Acts, Rules and Departmental instructions. It also helps in providing adequate safeguard against evasion of Government revenue.

6.4.9.1 Internal audit

The internal audit is a vital arm of internal control mechanism and is generally defined as the control of all controls. It helps the organisation to assure that the prescribed systems are functioning reasonably well.

The Department had no separate Internal Audit Wing and the Finance Department had not audited any field offices as well as headquarter office for the period 2008-13. The Department stated that no requisition was sent to the Finance (Audit wing) and there was no system for internal audit in the Department.

After we pointed this out, the Government stated (October 2013) that there was no provision for internal audit in this Department. Thus, the Department remained unaware of its weaknesses and strength.

6.4.9.2 Non-maintenance of registers

Section 12 and 23C of MMRD Act provides for maintenance of vital registers like register of application of prospecting licence/mining lease/reconnaissance permit, register of illegal mining. Further, as per instructions issued by the Department in June 1988 and June 1998, the Mining Officers (MOs) were required to maintain a register of illegal mining. The MOs and Mines Inspectors (MIs) are required to inspect minimum two times and six times respectively of every mine in their jurisdiction in a financial year and the position should be noted in the above mentioned register.

We observed between May and July 2013 that out of 10 test-checked district mining offices, register for cases of illegal mining was not maintained in six mining offices⁵. In other three mining offices⁶, it was stated that the register for cases of illegal mining was being maintained, however the same were not produced to audit despite request. The MO Patna did not reply in this matter. As a result, number of inspections carried out in a financial year and the status in respect of cases of illegal mining could not be ascertained.

Further, we observed that registers like application for new mining leases, renewal of major mining leases, demand, collection and balance register in case of petroleum and gas prospecting licence, monthly, quarterly and annual report/return to be submitted at headquarter were not maintained in the office of the Director of mines. In the absence of the above noted vital registers and report/returns, the departmental officers were unable to review the disposal of application for new mining leases/renewal of mining leases and to ascertain

⁵ Begusarai, Bhojpur, Gaya, Lakhisarai, Munger and Vaishali.

⁶ Bhagalpur, Motihari and Rohtas.

rent, royalty and licence fee payable. Non-maintenance of above noted vital registers is indicative of poor monitoring mechanism in the Department.

After we pointed this out, the Government stated (October 2013) that direction would be issued to district level offices. We await further report in this regard (November 2013).

6.4.9.3 Inadequate inspection by departmental officers

As per notification issued by the Mines and Geology Department, Government of Bihar in June 1970, the Deputy Director of Mines were required to inspect the Mining Offices once in a year.

Inspection of the subordinate offices by the higher authorities is an important tool to ensure proper functioning of the offices. We observed between May and June 2013 that concerned DDMs had inspected only four out of 10 test-checked

mining offices during 2008-13, however, they were required to inspect all test-checked mining offices once in a year. These limited inspections did not point out important issues such as non-maintenance of crucial register. The details of these Inspection Reports are given below:

Table- 6.9

Year	Name of district	Date of inspection	Inspecting authority	Outcome
2008-09	Lakhisarai	2.8.2008	DDM, Munger	Inspection report was not found in the office.
2010-11	Gaya	24.3.2011 to 25.3.2011	DDM, Gaya	Raising and Despatch register was maintained but not updated.
	Patna	21.10.2010 to 22.10.2010	DDM, Patna	Register of illegal mining was not maintained.
	Rohtas	9.3.2011 to 11.3.2011	DDM, Patna	Raising and Despatch (RD) Register for limestone and crusher was not made available. RD register for sand and stone was not being maintained properly.

The information/registers regarding raising and despatch register of limestone, crusher, sand and stone were not furnished to audit despite request. Hence no comments on their effectiveness could be made.

We recommend that the Government may

- take effective steps for internal audit of all field offices including Directorate by the Finance Department at regular interval so that deficiency, if any, may be addressed in time.
- ensure maintenance of basic records like register of illegal mining, lease application register, lease renewal register etc. and their review at regular interval by the higher departmental officers.
- ensure inspection of field offices at regular interval and timely compliance of deficiencies noticed during inspection.

6.4.10 Information Technology aspects

The value of good Information Technology (IT) systems is that they can be an efficient and effective programme delivery mechanism. The Department had decided (December 2006) to use computers in its works from headquarter level to district level vide its resolution. Further, as per para 5.3.3 of Information and Communication Technology Policy (ICT) 2011, of Government of Bihar, the Department was required to prepare five years IT plan with yearly deliverables containing details of investments envisaged in the IT infrastructure, training of personnel, etc. and providing high volume of citizen centric services. The Nodal IT Officer has to co-ordinate with the IT Department for conceptualisation and implementation of State IT Projects.

The Department had not prepared five year IT plans as per ICT Policy, 2011 and also not designated any officer as Nodal IT Officer to co-ordinate with the IT Department for conceptualisation and implementation of the State IT Projects. We observed that the computerisation had not been done at the regional offices.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that

computerisation of field offices was being done and work would be entrusted to Bihar Electronics Development Corporation Limited (BELTRON).

6.4.11 Manpower management

The cadre-wise sanctioned strength and men-in-position of the Department (as on May 2013) is given below:

Table- 6.10

Sl. No.	Name of the post	Sanctioned strength	Men-in-position	Vacancy
1.	Deputy Director	8	1	7
2.	Assistant Director/District Mining Officer	11	7	4
3.	Assistant Mining Officer/Assistant Mineral Development Officer	25	15	10
4.	Mines Inspector	38	16	22

(Source: Information furnished by the Department)

It may be seen from above table that large number of vacancies is in the cadre of Mines Inspector, who are mainly responsible for operational functions of the Department. It was also observed that nine MIs were holding the charge of more than one district even at far off places. This may adversely affect the collection of the revenue and checking of illegal mining in the State.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that the Department was considering taking services of newly appointed Deputy Collectors in future.

We recommend that the Government may fill-up the vacancies in the mining offices for better development of mineral resources and effective control over illegal mining.

6.4.12 Non-adherence of provisions of Rules regarding levy of penalty for illegal procurement of minerals by works contractors

Rule 40 (10) of BMMC Rules, 1972 provides that works contractor shall purchase the minerals from lessee/permit holder and authorised dealers only and no Works Department shall receive the bill which the works contractors submit to recover cost etc. of mineral used by them in completion of the works unless the same is accompanied with prescribed forms 'M' and 'N' describing the names and addresses of the dealers from whom the minerals were purchased.

Further Section 21 (5) of the MMDR Act, 1957 read with Rule 40(8) of the BMMC Rules, 1972 provide that whenever any person raises without any lawful authority, any mineral from any land, the State Government may recover from such person the minerals so raised or where such minerals has already been disposed off the price thereof.

We observed between December 2012 and July 2013 from the revenue collection report of eight district mining offices⁷ out of test-checked 11 district mining offices⁸ that a sum of ₹ 141.19 crore were deposited by the Works departments in shape of royalty under the head "0853 Non-ferrous Mining and Metallurgical Industries" during the period 2008-09 to 2012-13 which was deducted from the bills of the works contractors. Out of which we cross verified the cases of royalty deduction of ₹ 12.26 crore with treasury records and works departments of four districts⁹ and observed that the Works departments deducted and deposited the royalty from the bills of contractors against

use of minerals without ensuring form 'M' and 'N'. The works departments however received the bills of contractors which were not accompanied with the form 'M' and 'N' after deducting the amount of royalty deposited under "0853-Non ferrous Mining and Metallurgy Industries" in contrary to above provisions. The non-submission of form 'M' and 'N' by the works contractors showed that the mineral were not procured from authorised dealers/permit holders. Further, MOs on receipt of the deduction of royalty from the Works departments did not raise the demand for minimum penalty at least equivalent to royalty of ₹ 12.26 crore from the works contractors through Works departments.

After we pointed this out, the Government stated (October 2013) that it was not pertinent to impose penalty against the works contractor in the interest of mining revenue in view of the development of infrastructure. The facts remain

⁷ Begusarai, Bhagalpur, Gaya, Motihari, Nawada, Patna, Rohtas and Vaishali.

⁸ Begusarai, Bhagalpur, Bhojpur, Gaya, Lakhisarai, Motihari, Munger, Nawada, Patna, Rohtas and Vaishali.

⁹ Begusarai, Motihari, Patna and Vaishali.

that deduction of royalty by the works departments from the bills of works contractors against use of minerals and its remittance into treasury indicates that minerals were not purchased from the permit holder/authorised dealers and penalty should be levied in terms of the provisions of BMMC Rules.

We recommend that the Department may install a mechanism for better co-ordination among all revenue departments especially with Works departments for prevention of illegal mining and leakage of revenue.

6.4.13 Mineral excavation without approval of Mining Plan

As per Rule 22 A of the Mineral Concession Rules, 1960, mining operations shall be undertaken in accordance with the duly approved Mining Plan and modification of approved mining plan during the operation of a mining lease also requires prior approval. Rule 12 of the Mineral Conservation and Development (MCD) Rules, 1988 provides that lessee shall review the Mining Plan and submit Mining Scheme to the Indian Bureau of Mines (IBM) for the next five years at least 120 days before expiry of the current plan and IBM shall communicate its approval or rejection within 90 days. Further under Rule 23B of the MCD Rules in case of a fresh grant or renewal of mining lease, the lessee shall submit a Progressive Mine Closure Plan as a component of Mining Plan. Section 21(5) of MMDR Act provides that whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where the mineral has already been disposed of, the price thereof, along with royalty.

We observed in June 2013 from scrutiny of mining lease files of Silica/Quartz/ Quartzite/ Limestone in three mining offices¹⁰ that three lessees had not submitted any Mining Plan and Progressive Mine Closure Plan and continued to engage in production and dispatch of minerals from their mines. In absence of approved Mining Plan/scheme, the MOs were unable to monitor the extraction of minerals. The transit passes were also issued for dispatch of minerals without ensuring the approval of Mining Plan and Progressive Mine Closure Plan of the leases and collected royalty on the basis of monthly returns. Despite the facts that lessees did not submit the mining plan, the

concerned MOs issued transit passes which facilitated the lessees to despatch their minerals. This undue favour to the lessees resulted in forgoing of Government revenue of ₹ 16.45 crore¹¹ in shape of penalty as detailed in **Annexure-XIV**.

After we pointed this out, the Government stated (October 2013) that the concerned MOs would be directed to examine the cases of excavation of minerals without Mining Plan. We await further report in this regard (November 2013).

¹⁰ Lakhisarai, Munger and Rohtas.

¹¹ Calculated as per Mineral Year Book of IBM for the year 2008-09 to 2010-11/as per rate of royalty based on monthly return.

6.4.14 Submission of monthly return

As per Rules 45(1) and 52 of MCD Rules, 1988, owner, agent, mining engineer or manager of every mine shall submit monthly and annual return of the mining activities undertaken by them to the IBM and the State Government or to the competent authority prescribed in this regard. Rule 58 provides that whoever contravenes any of these provisions shall be punishable with imprisonment for a term which may extend up to two years or with a fine up to ₹ 50000. In cases of continuing contravention, additional fine which may extended upto ₹ 5000 for every day during which the contravention continues shall also be levied.

We observed in December 2012 from the lease files in district mining office, Nawada that out of three lessees for Mica mineral, two lessees (Bihar State Mineral Development Corporation at Sapahi Mauza for 3300 acre and another lessee at Mauza-Sawaiyatand, Belwa/Delha for 2465.54 acre) had not submitted monthly returns as per above provisions since January 2004 to December 2012 and January 2003 to December 2010 respectively. The

leaseholders were required to submit returns even in cases of non-production of mineral. However, the MO as well as the Director of mines did not take any action for compliance or levy of fine for non-submission of monthly returns. Thus, maximum leviable fine for non-compliance worked out to ₹ 1.02 crore¹². In absence of such returns, production of minerals was also not monitored.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that action would be taken in this regard. We await further report in this regard (November 2013).

6.4.15 Non-disposal of application for renewal of mining leases

As per Rule 24 (A) of MC Rules, 1960 an application of renewal of a mining lease shall be made to the State Government at least 12 months before the date on which the lease is due to expire. The application for renewal of mining lease is to be disposed of within six months.

We observed in May 2013 from mining leases of major mineral files in the office of the Director of Mines, Patna that lessees of four mining leases of limestone of Rohtas district had applied for renewal of leases for the period of 20 years within time but these

applications were pending since 1985 and could not be disposed off even after lapse of 28 years due to non-payment of royalty, other dues and clearance from the Forest and Environment Department. The Government constituted a committee in September 2012 to look into the matter and submit their

¹²

BSMDC -108 months at the rate of ₹ 50000= ₹ 5400000

Another lessee at mauza Sawaiyatand, Belwa/Delha - 96 months at the rate of ₹ 50000= ₹ 4800000.

recommendations. The committee recommended (October 2012) for rejection of renewal of lease application in all cases as the leased areas was falling under forest zone and the leaseholders could not get clearance from the Ministry of Forest and Environment. However, the Government had not taken any decision on the recommendation of the committee even after lapse of more than one year.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that the action would be taken in this regard. We await further report in this regard (November 2013).

We recommend that

- **mining operation may not be carried out without approval of Mining Plan and Progressive Mine Closure Plan for protection of fragile environment and proper mineral development.**
- **monthly, quarterly and annual returns shall be procured from the leaseholders for proper assessment of dead rent/royalty etc. In cases of failure to furnish the return penalty may be imposed as per codal provisions.**

6.4.16 Illegal operation of the brick kilns

As per Rule 4 of the BMMC Rules 1972, "No person shall undertake any mining operation in any area without valid permit. Further Rule 28 (1) of the BMMC Rules 1972, an application for quarrying permit shall be submitted to the competent authority in Form-I*. Further whoever is found to be extracting or removing minor minerals shall be presumed to the illegal removal of the minor mineral and shall be punished as per Rule 40 of the BMMC Rules.

*Form – I is prescribed for application for quarrying permit.

We observed between May and July 2013 from the permit register and files of brick kiln owners in 10 district mining offices¹³ that out of 8,193 brick kilns operated during 2008-13, 6,789 (i.e. 83 *per cent*) brick kilns¹⁴ were operated without obtaining quarrying permit for want of NOC from Bihar State Pollution Control Board (BSPCB), agreement deed from the land owners etc.

and non-payment of consolidated royalty for excavation of earth. The brick kilns register and permit register were not reconciled by the concerned MOs and were also not reviewed by the higher departmental officer so they remained unaware of the facts of operation of brick kilns without issuance of permit. Despite the fact that the mining activities were being carried out without permit, the Department did not take any action to stop the business as per the BMMC Rules.

¹³ Begusarai, Bhagalpur, Bhojpur, Gaya, Lakhisarai, Motihari, Munger, Rohtas, Patna and Vaishali.

¹⁴ No. of brick kilns operated without permit- 2008-09 (1111), 2009-10 (1263), 2010-11 (1344), 2011-12 (1324), 2012-13 (1747)= 6789.

The matter was reported to the Government in September 2013; their specific reply has not been received (November 2013).

We recommend that the Mining Officers should be made responsible for verification of all necessary documents and have co-ordination with other local administration to prevent leakage of revenue and to protect fragile environment.

6.4.17 Receipts from settlement of sand *ghats*

6.4.17.1 Delay in issuance of notification for settlement of sand *ghats*

As per clause (5) of the instruction no. 6198 dated 3 October 1988 of the Mines and Geology Department, Government of Bihar, if the sand *ghats* were to be settled from 1st January of any calendar year, the settlement procedure should be started from the 1st day of November of the preceding year so that the possession of sand *ghats* to the lessee might be handed over on 1st day of January. Further, under clause 7 of notification of December 2006, the sand *ghats* shall be settled for three calendar years

During scrutiny of settlement file of sand *ghats* in the office of the Director of Mines, Patna in May 2013, we observed that a Notification for settlement of sand *ghats* for calendar years 2010-12 was issued on 31 December 2009 in the State of Bihar from 1st February 2010 and the Department allowed (December 2009) the previous settlee to operate the sand *ghats* for January 2010 by depositing the proportionate

amount for one month by enhancing 10 *per cent* of the settlement amount for calendar year 2009. On settlement of sand *ghats* for the year 2010, the Department collected a sum of ₹ 124.48 crore. The proportionate amount for the one month was ₹ 10.57 crore against which the Department collected only ₹ 5.60 crore from the previous settlee for the month of January 2010 as per above instruction. Thus, due to delay in issue of notification for settlement of sand *ghats*, the Government had forgone revenue of ₹ 4.97 crore.

After we pointed this out, the Government stated (October 2013) that the notification for settlement of sand *ghats* was issued on 31 December 2009 due to delay in submission of report for formation of sand *ghats* as one unit comprising Saran, Patna and Bhojpur districts and one unit comprising Aurangabad and Rohtas districts for auction of sand *ghats*. Further it was stated that sand *ghat* was not remained unsettled during this period. The reply of the Government is not in conformity with the facts as settlement procedure should have been started in such a way that it should be completed before 31st December as per above instructions.

6.4.17.2 Non-execution of deed for settlement of sand ghats

Rule 11B (2) read with 11A of BMMC Rules, 1972 provides that where the settlement is made by public auction, a deed shall be executed in form[#] "O" within 30 days of the order of the settlement and if no such deed is executed due to the failure on the part of the settlee, the settlement order shall be deemed to have been revoked and security deposit and other amount may be forfeited.

[#] Form "O" is a model draft for agreement made between the Government of Bihar and settlee of sand ghats.

We observed between June and July 2013 from scrutiny of settlement files of sand ghats for calendar year 2007-12 of three district mining offices¹⁵, that the deed of settlement were not executed for the calendar year 2007-09 despite clear provisions in the BMMC Rules. However the concerned MOs did not initiate any action either to revoke the settlement or forfeit the security deposit and other amount. Thus, non-execution of deed resulted in forgoing of Government revenue in the shape of registration fee.

After we pointed this out, the Government stated (October 2013) that the concerned Collectors were being directed to comply with the codal provisions on execution of deeds. Further report has not been received (November 2013).

6.4.17.3 Non-registration of deed of settlement of sand ghats

As per clause 9 of notification no. 2972 M dated 2 December 2006 for settlement of sand ghats, the settlee is required to register the deed of agreement within a week of settlement. Further, as per Section 17(1) (d) of the Indian Registration Act, 1908 lease documents of immovable property from year to year or for any term exceeding one year shall be registered.

We observed between June and July 2013 from the settlement files of sand ghats in four district mining offices¹⁶ that eight sand ghats were settled on an auctioned amount of ₹ 28 crore in the year 2007 with enhancement of 10 per cent each year of the settlement amount for next two consecutive years as per notification (December 2006). The settlees had paid the stamp duty of deed on the settlement amount ₹ 92.69 crore but the deed were not registered during the settlement period 2007-09. This resulted in non-realisation of registration fee (at the rate of four per cent on consideration amount of ₹ 92.69 crore) of ₹ 3.71 crore.

After we pointed this out, the Government stated (October 2013) that as per Indian Registration (IR) Act, the deed for registration of one year was optional. It was further stated that sand ghats were settled on yearly basis. The reply of the Government is not in consonance with the facts that the settlement of sand ghats was for three years. Thus, non-invoking of provision of IR Act for registration of the deeds for settlement of sand ghats, the Government was deprived of revenue of ₹ 3.71 crore in shape of registration fees.

¹⁵ Bhojpur, Lakhisarai and Munger.

¹⁶ Bhojpur, Munger, Patna and Rohtas.

6.4.18 Receipts from lease of stone quarry

Under Rule 53 of BMMC Rules, 1972 no mining lease for stone shall be granted and existing leases would be allowed to subsist for the remaining period for which they have already been granted but they shall not be renewed except in public interest if the State Government satisfied that quarrying of stone may not adversely affect ecology and environment.

6.4.18.1 Short realisation of royalty and interest from lessee of stone quarry

Rule 9 A of the BMMC Rules, 1972 provides that any mineral may be leased out or settled by public auction/tender in the manner prescribed under Rule 52. As per Rule 52(1), (4) and (5) of the Rules *ibid*, the bid amount shall be deposited on yearly basis in equal installment and each installment shall be deposited before 31st January. If any installment has not been deposited before prescribed period, 24 *per cent* simple interest shall be charged upto two months and after that action for cancellation shall be taken.

We observed between December 2012 and May 2013 from scrutiny of 48 files out of 267 files of leases of stone/murram quarry in four district mining offices¹⁷ that 19 stone/murram quarries were auctioned between December 2006 and November 2008 at ₹ 17.27 crore for the period of five years. The lease-holders had to pay the bid amount in installments on a yearly

basis which accumulated to ₹ 15.97 crore upto January 2013, against which the leaseholders had paid ₹ 10.07 crore only between December 2006 and February 2013. This resulted in short realisation of royalty of ₹ 5.90 crore. Besides, interest of ₹ 46.44 lakh for two months for short payment of installments of royalty was also leviable. Despite short payment of yearly installment of royalty, neither action for cancellation of lease was initiated by the concerned MOs against 18 leaseholders nor was action for realising the dues taken as per schedule-I under Section 3(6) of the Bihar and Orissa Public Demand Recovery (PDR) Act. This resulted in short realisation of revenue of ₹ 6.36 crore including interest (**Annexure-XV**).

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

¹⁷ Aurangabad, Gaya, Nawada and Sheikhpura.

6.4.18.2 Incorrect fixation of settlement amount

As per Rule 22 (1) and 52 of BMMC Rules, 1972, an application for renewal of quarrying lease under Rule 52 shall be made to the competent officer at least ninety days before the expiry of the lease accompanied by a fee of ₹ 5000. The Government vide orders between March and August 2010 approved the renewal of leases of stone quarry in three cases of Nawada districts subject to the condition that settlement amount for renewal of lease per acre per year shall be fixed on the basis of average auctioned amount of previous three years in each case.

During scrutiny of files of lease of stone quarry for the year 2011-12 of district mining office, Nawada in December 2012, we observed that three leases of stone quarry were renewed for 10 years between December 2009 and July 2010 for 14.80 acre at the rate of ₹ 3.68 lakh per acre per year instead of ₹ 3.92 lakh on the basis of average auctioned

amount of last three years. We further noticed that the difference occurred due to exclusion of an area of 5.50 acre and amount (₹ 79.51 lakh) of three leases for the year 2008-09 and considering the installment amount in three cases of 2008-09 instead of auction amount. This incorrect fixation of settlement amount resulted in short realisation of royalty of ₹ 35.52 lakh as detailed below:

Table- 6.11

(₹ in lakh)						
Sl. No.	Mauza/Plot No.	Area (in acre)	Rate per acre per year paid	Rate per acre per year payable	Difference	Amount for 10 years
1.	Ratanpur/731(p), 735(p), 738(p)	4.75	3.68	3.92	0.24	11.40
2.	Pandana/40(p)	5.70	3.68	3.92	0.24	13.68
3.	Ratanpur/731(P), 730(P) and 738(P)	4.35	3.68	3.92	0.24	10.44
Total		14.80				35.52

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

6.4.18.3 Short realisation of royalty for excess despatch of stone

Rule 9 A of the BMMC Rules provides that any mineral may be leased out or settled by public auction/tender in the manner prescribed in Rule 52. Rule 52 (1) and (4) of the Rules *ibid* provides that the period of quarrying lease shall not be less than five years and the bid amount shall be deposited on yearly basis in equal installment and each installment shall be deposited before 31st January of each year. Further, it provides that the settler shall pay extra royalty for quantity of stone extracted and despatched in excess of the quantity equivalent to the bid amount. Further, Rule 26 (6) of the Rules *ibid* provides that the competent officer after verification of the monthly return furnished by the lessee shall assess the amount of rent/royalty payable by the lessee.

We observed between December 2012 and March 2013 in three district mining offices¹⁸ from scrutiny of 25 out of 140 files of lease of stone quarry and monthly returns submitted by the leaseholders that four stone quarries were auctioned between December 2006 and November 2008 at ₹ 95.99 lakh. The leaseholders had extracted 103.71 lakh cubic feet stone valued at ₹ 164.24 lakh between the period December 2006 and December 2012, against which they

paid only ₹ 99.38 lakh. Inaction on part of MOs to verify the monthly return submitted by the leaseholders resulted in short realisation of royalty of ₹ 64.86 lakh.

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

¹⁸ Aurangabad, Gaya and Nawada.

6.4.19 Receipt from leases of ordinary earth

6.4.19.1 Non-realisation of royalty/dead rent and interest

As per Rule 9 (1) of the BMMC Rules, a mining lease shall be granted by the collector and every application for a mining lease in respect of any land shall be made in form-A accompanied by a fee of ₹ 2000. As per clause 1 & 2 of Part-V of agreement for leases of ordinary soil, the lessee shall pay the dead rent or the sum of the royalty whichever is greater for the quarterly period. Clause 3 of Part VI of said agreement provides that the account for each month in respect of raising, sale, dispatch, royalty, rent due and paid shall be submitted within the 15th day of the following month. Clause 4 of Part VI of agreement provides that the lessee shall be liable to pay the interest at the rate of 24 per cent per annum on any amount remaining payable to the Government. Further, Rule 26(6) of the Rules *ibid* provides that the competent officer after verification of the monthly return furnished by the lessee shall assess the amount of rent/royalty payable by the lessee.

We observed in January 2013 during scrutiny of files relating to lease of ordinary soil in district mining office, Patna that out of three test-checked cases, one lease for ordinary soil was granted to a lessee for a period of two years from June 2010 for 152.50 acre of land. During the subsistence of lease, the lessee had paid ₹ 2.87 crore as royalty/dead rent on quarterly basis against the due amount of royalty of ₹ 3.67 crore. After the completion of lease the demand for residual royalty of ₹ 79.74 lakh was not raised till the date of audit (January 2013). Besides, interest

of ₹ 17.96 lakh on short payment/belated payment of royalty/dead rent was also leviable as per provisions of agreement. Inaction on the part of MO to verify the monthly return submitted by the leaseholders resulted in short realisation of revenue of ₹ 97.70 lakh including interest of ₹ 17.96 lakh.

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

6.4.19.2 Non-levy of penalty for illegal use of ordinary earth

Ordinary earth used for filling or leveling purpose in construction of embankments, roads, railways and buildings is a minor mineral. In this regard the Government of Bihar vide Gazette Notification (April 2006) fixed the rate of royalty of ordinary earth as ₹ 15 per cubic metre which was revised (January 2012) to ₹ 22 per cubic metre. Under Rule 27 and 28 of the BMMC Rules, any quarrying activities require sanction of the competent authority on payment of requisite fee.

Rule 40 (8) of the BMMC Rules prescribes the penalty for illegal mining which includes recovery of the price of the mineral, rent, royalty or taxes as the case may be. Further, Rule 40(1) of the Rules *ibid* prescribes initiation of criminal proceedings attracting punishment of simple imprisonment that may extend to six months or with fine which may extend to rupees five thousand or both.

We observed between February and July 2013 from lease files/Bank Draft Register in three district mining offices¹⁹ that ₹ 1.21 crore was deducted/deposited by four companies as royalty during the period from July 2011 to March 2013 for use of mineral in earth work. We further observed that these companies had removed the minor mineral without obtaining quarrying permit for the same. Thus, they removed the earth illegally for which they were liable to pay minimum penalty of

₹ 1.21 crore in terms of the Rules *ibid*. However, the concerned MOs had neither levied penalty nor initiated any action for criminal proceedings in accordance with the provision of the BMMC Rules. This resulted in non-levy of penalty of ₹ 1.21 crore.

The matter was reported to the Government in September 2013; their specific reply has not been received (November 2013).

6.4.20 Receipt from Major Minerals

In Bihar, 25 mining leases for major minerals for Limestone, Mica, Soap stone and Silica were issued in four districts²⁰ and two prospecting licences for petroleum product were also issued in Purnea and Bettiah districts to the Oil and Natural Gas Corporation and Tata Petrodyne for exploration of oil and natural gas. The irregularities noticed in course of scrutiny are mentioned in the succeeding paragraphs:

¹⁹ Motihari, Patna and Vaishali.

²⁰ Lakhisarai- one lease for Quartz/Quartzite, Munger- three leases for Silica Sand, Nawada- three leases for Mica, Rohtas -17 leases for Lime stone and one lease for Silica sand.

6.4.20.1 Non-cancellation of lease of inoperative mines

Under Rule 28 of MC Rules, 1960, if any lease holder does not start mining operation within one year[§] from the date of execution of the lease deed or discontinues the mining operation for a continuous period of one year after the commencement of such operation, the State Government shall by an order declare the mining lease as lapsed and communicate the declaration to the lessee.

[§] It was revised to two years with effect from July 2012.

During scrutiny of the mining lease case files of two mining office (Nawada and Rohtas) between December 2012 and July 2013, we observed that one lease of Bihar State Mineral Development Corporation (BSMDC) for Mica and eight mining leases²¹ of another lessee in Nawada and Rohtas district respectively were executed during the period May 1966 to May 1986 but the mining operations were remained inoperative (2000 and 2008-09 respectively) for the period ranging between five and 13 years. The Department did not cancel the inoperative mines for discontinuance of the mining operation for a continuous period of two years and resettle with the other willing persons for the better mineral development.

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

6.4.20.2 Delay in disposal of lease applications

Section 5(2)(a) of the MMDR Act, 1957 provides that no mining lease shall be granted by the State unless it is satisfied that there is evidence to show that the area for which the lease is applied for has been prospected earlier and existence of mineral content therein has been established. As per the provisions of the MC Rules, the Government is required to dispose of the application for grant of mining lease within 12 months from the date of its receipt.

The Department despite being requested in May 2013 did not furnish the information regarding the number of application received for grant of lease for major minerals, lease granted, number of applications rejected and number of applications pending for disposal. However, from

the information collected from district mining office, Nawada we noticed that five applications for new mining leases of Mica/Quartz were forwarded to the Director of Mines for approval. These applications were pending for the period ranging between two years four months and 10 years nine months, though these were required to be disposed of within 12 months from the date of receipt of application. As the applications could not be disposed off within due time, the Government was deprived of revenue as dead rent besides blocking of mineral development. Since the Department did not maintain the lease application register and as such in absence of this basic record the higher

²¹ Another lessee at Mauza- Sohdag TiwraKhurd, Sanrakhi, Khukhuma, Kasiawan Bazitpur, Bharuhi, Banjari, Lebura and Kalyanpur.

authorities remained unaware of the disposal of lease application which shows weak monitoring mechanism.

After we pointed this out, the Government stated (October 2013) that in order to grant lease it takes reasonable time for scrutiny of the lease application. The reply was not in consonance with the codal provisions mentioned above which stipulates that applications should have been disposed of within 12 months from the date of its receipt.

6.4.20.3 Non-levy of Dead Rent and Surface Rent

Under Section 9A (1) of the MMDR Act 1957, the holder of mining lease is liable to pay royalty for any mineral removed or consumed by him or sold or dispatched from the leased area or the dead rent in respect of the leased area whichever is higher. Besides, the lessee is also liable to pay surface rent of the leased area. Further, if the royalty or rent was not paid in time simple interest at the rate of 24 per cent per annum is also chargeable on the dues remaining payable to the Government.

We observed in December 2012 during scrutiny of the mica lease file of the Bihar State Mineral Development Corporation (BSMDC) in the district mining office, Nawada that a mica lease had been given for 3300 acre at Mauza- Sapahi, Nawada to BSMDC. The demand for dead rent and surface rent was raised and paid upto May 2006.

Thereafter neither demand for dead rent and surface rent was raised by the MO nor any rent for the said period was paid by the Corporation. The period of lease of BSMDC for mica has expired in 2011. The production of mica was stopped since 2000 and the monthly returns were also not submitted since January 2004. The concerned MO did not review the file relating to lease of Mica settled to the BSMDC which resulted in non-levy of dead rent and surface rent and also could not ensure submission of monthly returns.

Thus, demand for dead rent and surface rent amounting to ₹ 2.04 crore was not realised and at the same time lease was not cancelled for discontinuance of production since 2000 as below:

Table- 6.12

(Amount in ₹)

	Period	Area	No. of months	Rate per Ha. per annum	Amount of dead rent
Dead Rent	June 2006 to August 2009	3300 Acre (1335.48 Ha.)	39	1200	5208372
	September 2009 to December 2012	3300 Acre (1335.48 Ha.)	40	3000	13354800
Total					18563172
Surface Rent	June 2006 to December 2012	3300 Acre (1335.48 Ha.)	79	17	1793549
Grand Total					20356721

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

We recommend that all applications for renewal/new mining leases may be monitored properly and disposed off in time for better mineral development which may enhance State as well as national revenue.

6.4.21 Irregularities in transit pass

Rule 4(ii) of the Bihar Minerals (prevention of illegal Mining, Transportation and Storage) Rules, 2003 stipulates that all despatches of minerals except those by rails or aerial ropeway shall be accompanied with a challan or transit pass. Further, as per the provision laid down in Rule 26 (6) of the BMMC Rules, the Competent Officers after verification, as he may deem necessary, of the monthly returns furnished by the lessee shall assess the amount of rent/royalty payable by the lessee.

We observed in June 2013 from the monthly returns/transit pass relating to mining lease of Quartz/Quartzite in district mining office, Lakhisarai that the lessee had submitted the monthly return along with copies of transit passes. Scrutiny of transit passes for the months of October 2011 and December 2011, we

found that the value of despatch of quartz mineral shown as 586 MT in the return against 562 MT as per counterfoil of transit passes used for despatch of the materials attached with return. Thus, it indicates that total quantity of 24 MT of Quartz mineral was transported without transit pass which was violation of the above Rules.

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

6.4.22 Consent for operation

Under the Section 25 of the Water (Prevention & Control of Pollution) Act 1974 read with Section 21 of the Air (prevention & Control of Pollution) Act 1981, any industry, operation or process has to obtain the Consent for Operation (CFO) from the State Pollution Control Board each year.

The mining activity is closely linked with forestry and environmental issues as most of the mines are situated either in forest or its nearby, therefore, it is a direct intervention in the environment and has potential to disturb the

ecological balance. Further, minerals are non-renewable; therefore, their conservation in economic manner and efficient use is utmost necessity which includes scientific method of mining, beneficiation and zero waste mining. We observed between May and July 2013 that 3,795 brick kilns were operated during 2011-13, out of which only 1,482 brick kilns owners had obtained consent for operation from the BSPCB. The Board had not provided information for earlier years, despite being requested. Thus, out of 3,795 brick kilns, 2,313 (61 *per cent*) were being operated without obtaining CFO from the BSPCB. Also, the respective DMOs did not enforce the provisions of the Acts. This indicated an indifferent attitude towards meeting environmental norms.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that the observation was of directive nature and the provision would be added in BMMC Rules.

The Department may co-ordinate with the BSPCB for protection of environment and better development of minerals with a provision to recover the cost of reclamation for damages caused to environment.

6.4.23 Conclusions

The review revealed a number of deficiencies in the levy and collection of mining receipts and persistent non-compliance of rules and regulations leading to leakage of revenue. The State Government does not have a mineral policy in place in line with the Model State Mineral Policy 2010, circulated by the Government of India. There was lack of monitoring and supervision in implementation of provisions of Acts/Rules regarding permit, lease/settlement of Minor and Major minerals and levy and collection of royalty. The internal control framework was deficient in terms of inadequate internal audit, non-maintenance of important registers, non-submission/assessment of returns and inadequate inspections by departmental officers. There were vacancies in the key post of Mines Inspector.

6.4.24 Summary of Recommendations

The Government may consider

- **for early finalisation and implementation of the Model State Mineral Policy for minor minerals.**
- **to ensure maintenance of basic records like register of illegal mining, lease application register, lease renewal register etc. and their review at regular interval by the higher departmental officers.**
- **to ensure that no mining operation be carried out without approval of Mining Plan and Progressive Mine Closure Plan for protection of fragile environment and proper mineral development.**

**Patna
The**

**(P.K. SINGH)
Accountant General (Audit), Bihar**

COUNTERSIGNED

**New Delhi
The**

**(SHASHI KANT SHARMA)
Comptroller and Auditor General of India**