

CHAPTER-IV
ENVIRONMENT AND FORESTS
DEPARTMENT

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ENVIRONMENT AND FORESTS DEPARTMENT

4.1 Administration

The State of Assam comprising 33 civil districts, including three hill districts, is endowed with rich forest resources. The State has also been identified as one of the 18 biodiversity hotspots in the world. Out of the total geographical area of 78,438 sq. km., the forest cover of Assam is 28,312 sq. km⁷⁹. Revenue in the Forest Divisions are mainly derived from sale proceeds of major and minor forest produce through auction, negotiation and permit of allotment. Collection of royalty from minor minerals, licence fee from sawmills and timber depots also form part of forest revenue apart from fees, fines, *etc.* imposed under various Acts/Rules.

The Principal Chief Conservator of Forests and Head of Forest Force (PCCF and HoFF), Assam is in overall charge of the Department. The PCCF & HoFF is assisted by two Principal Chief Conservators of Forests (PCCF), 13 Additional Principal Chief Conservators of Forests (APCCF), 11 Chief Conservators of Forests (CCF) and 10 Conservators of Forests (CF). In addition, there are 68 forest divisions including Research, Education and Working Plan wings⁸⁰ each headed by a Deputy Conservator of Forests (DCF)/Divisional Forest Officers (DFOs). The divisions are further divided into ranges and beats for ensuring effective control and supervision of the forests of the State.

The mandate of the Forest Department is to manage the forests, forest produce and wildlife of the State of Assam. The principal Act, regulations and rules which govern the functioning of the Department of Environment and Forests are the Assam Forest Regulation, 1891; Assam Sale of Forest Produce, Coupes and *Mahals* Rules, 1977; Forest (Conservation) Act, 1980; Assam Minor Minerals Concession Rules, 2013, and Rules and notifications/orders issued thereunder, from time to time.

4.2 Results of Audit

Test-check of records of 18 offices and 13 offices (out of 100 offices and 110 offices) in 2020-21 and 2021-22 respectively relating to the Environment and Forest Department revealed deficiencies as shown in **Table-4.1**.

Table-4.1: Results of Audit

Sl. No.	Category	2020-21		2021-22	
		No. of IRs	Amount (₹ in crore)	No. of IRs	Amount (₹ in crore)
1	Short/Non-realisation of royalty	3	0.90	19	14.10

⁷⁹ 3,017 sq. km is very dense forest, 9,991 sq. km is moderately dense forest and 15,304 sq. km is open forest as per Chapter-2 of India State of Forest Report 2021.

⁸⁰ Under the Forest Department, there were 33 Territorial Forest Divisions, 8 Wildlife Forest Divisions and 14 Social Forestry Divisions. Assam also has 11 Research, Education, Working Plan wings along with two State Forestry Training Institutes, namely the Assam Forest School and Assam Forest Guards School for training of the Foresters and Forest Guards respectively.

Sl. No.	Category	2020-21		2021-22	
		No. of IRs	Amount (₹ in crore)	No. of IRs	Amount (₹ in crore)
2	Short/Non-realisation of security deposit	0	0	8	1.51
3	Short/Non-realisation and retention of MMDR&R fund by DFOs	2	2.71	8	3.09
4	Short/Non-realisation of <i>Kist</i> money, licence renewal fee, welfare cess, <i>etc.</i>	5	1.38	6	2.79
5	Non-registration of deed agreement	3	0.82	2	0
6	Other irregularities	74	1.60	128	17.95
Total		87	7.41	171	39.44

4.3 Performance Audit on “Implementation of Assam Minor Mineral Concession Rules, 2013”

4.3.1 Introduction

Minerals, being a natural resource, are essential raw material for infrastructure, capital goods and basic industries. As a major resource for development, the extraction and management of minerals have to be integrated into the overall strategy of economic development. Being finite and non-renewable, their exploitation is to be guided by long-term national goals, development of the economy and upliftment of the local population. As such, a harmony and balance is to be maintained between their conservation and exploitation.

Minerals have been classified into ‘Major mineral’ and ‘Minor mineral’ based on their end uses. Major minerals are those specified in the First Schedule appended in the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act, 1957) such as coal, uranium, iron ore, *etc.* and all other minerals, which are not declared as minor minerals. Minor minerals⁸¹ means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral. Management of mineral resources is the responsibility of both the Central Government and State Governments in terms of entry 54 of the Union list (List I) and entry 23 of the State list (List II) of Seventh Schedule of the Constitution of India. The Central Government has enacted the MMDR Act, 1957, which lays down the legal framework for regulation of mines and development of all minerals, other than Petroleum and Natural Gas. Sections 15 and 23 of the MMDR Act, 1957 empower the State Government to make rules by issuing notification in the Official Gazette, for regulating the grant of mineral concessions in respect of minor minerals and to prevent illegal mining, transportation and storage of minor minerals.

Assam is blessed with minerals and mineral oils such as crude oil, natural gas, coal, limestone, granite, *etc.* along with various minor minerals like stone, sand, gravel, clay, *etc.*

Government of Assam (GoA) had introduced the Assam Minor Mineral Concession Rules, 1994 to regulate minor minerals in Assam as per provision of Section 15 of the

⁸¹ Section 3 (e) of MMDR 1957.

MMDR Act, 1957 repealing all Rules or executive instructions regarding quarrying or collection of minor minerals within the State.

In compliance to the orders of Hon'ble Gauhati High Court⁸² (2009) and Hon'ble Supreme Court⁸³ (2012), GoA had introduced the Assam Minor Mineral Concession (AMMC) Rules, 2013 in March 2013.

With the introduction of the AMMC Rules, 2013, clear segregation of powers between Mines & Mineral Department and Forests Department was provided with respect to administration of minor minerals which was hitherto not available as per AMMC Rules, 1994. As per AMMC Rules 2013, the PCCF & HoFF, Assam was made the competent authority to administrate minor minerals listed in Schedule Y⁸⁴ only. Moreover, AMMC Rules, 1994 did not provide the scope of settlement of Mineral Concession Areas (MCAs) by inviting open tenders whereas AMMC Rules, 2013 provided for settlement of MCA through inviting tenders.

As such, Department of Mines and Minerals⁸⁵, GoA regulates the AMMC Rules, 2013 and operation of minor minerals, used for other than industrial purposes, are controlled by the PCCF & HoFF of Assam and his officers.

4.3.2 Trends of Receipts from minor minerals

The State's revenue from Forestry and Wildlife *vis-à-vis* minor minerals during the period 2013-21 are shown in **Table 4.2**.

Table 4.2: State's revenue from Forestry and Wildlife *vis-à-vis* minor minerals

(₹ in crore)

Year	Receipts from		Non-Tax Revenue	Percentage of receipts from minor minerals over	
	Forestry and Wildlife	Minor Minerals		Forestry and Wildlife receipts	Non-Tax Revenue
2013-14	100.92	44.91	2705.03	44.50	1.66
2014-15	115.99	54.56	2412.89	47.04	2.26
2015-16	117.3	64.12	2741.56	54.66	2.34
2016-17	215.85	119.21	4353.13	55.23	2.74
2017-18	250.74	129.83	4071.97	51.78	3.19
2018-19	364.27	169.83	8221.29	46.62	2.07
2019-20	416.06	228.93	5539.34	55.02	4.13
2020-21	352.89	188.45	2899.63	53.40	6.50

(Source: Finance Accounts)

Table 4.2 shows that receipts under the 'Minor head -103' (minor minerals) forms a major component of the 'Major Head-0406' (Forestry and Wildlife), which ranged between 44.50 and 55.23 *per cent* during 2013-21. There was a sharp increase in revenue in 2019-2020 as compared to 2018-19 which was mainly attributable to increase of royalty rates of minor minerals in respect of private *patta* land. However, sharp decline in revenue was noted in 2020-21 due to the Covid-19 pandemic.

⁸² Haren Saikia vrs. State of Assam & others (W.A. No.327/2009).

⁸³ Deepak Kumar, *etc.* vrs. State of Haryana & others (SLP (C) No. 19628-19629 of 2009).

⁸⁴ Gravel, Ordinary Sand, Boulder, *Murram*, Brick earth, Road metal, Salt-petre, *etc.*

⁸⁵ Erstwhile it was called as the Department of Power (E), Mines and Mineral, GoA.

4.3.3 Organisational set up for administration of minor minerals

The PCCF & HoFF, Assam is the competent authority in respect of minor minerals listed in Schedule- ‘Y’ of AMMC Rules, 2013 for exercising such powers and functions as specified in the AMMC Rules, 2013. Further, GoA has also authorised all concerned DFOs for field level activities with approval from their respective higher officials under provisions of the AMMC Rules, 2013 in respect of minerals under schedule ‘Y’.

The Department of Mines & Minerals, Assam administers extraction of minor minerals as listed in Schedule “X”. Further, the Department of Mines & Minerals is the authority for registration of a person as “Recognised Qualified Person” (RQP) for preparation of mining plan on behalf of MCA holder(s). The Department of Mines & Minerals, Assam is the competent authority to approve the Mining Plan (MP).

The functioning of Department of Environment & Forests (DoE&F), GoA is classified into two categories *viz.*, Revenue Collection and Environmental Conservation and Protection. Revenue is raised by the DoE&F mainly from sale of Minor Minerals and Forest produce like Timbers & Non-Timbers which accounted for 55 *per cent* of Forests Revenue. Audit noticed persistent deficiencies/shortcomings in the implementation of AMMC Rules, 2013 during the compliance audits conducted during the last few years. As such, it was felt necessary to conduct a Performance Audit on “Implementation of AMMC Rules, 2013”.

4.3.4 Audit Objectives

The objectives of the Performance Audit (PA) were to assess:

- the efficacy of the management and regulatory processes governing the mining of minor minerals in Assam with focus on the implementation of the AMMC Rules, 2013.
- the adequacy of the measures taken to safeguard the environment in relation to mining of minor minerals.
- the adequacy of monitoring mechanisms to safeguard revenue and the environment.

4.3.5 Audit Criteria

To evaluate the above-mentioned audit objectives, the criteria and indicators were sourced from the following Acts, Rules and documents: -

- Mines & Minerals (Development and Regulation) Act, 1957, Assam Minor Mineral Concessions Rules, 2013, Assam District Mineral Foundation (Trust) Rules, 2020, Mineral Concession Rule, 1960;
- Sustainable Sand Mining Management Guidelines, 2016 issued by Ministry of Environment, Forest & Climate Change (MoEF&CC), GoI, Enforcement & Monitoring Guidelines for Sand Mining issued by MoEF&CC, GoI in 2020; and
- Orders, instructions, guidelines, standards issued by Government, Hon’ble Court/Additional Chief Secretary, GoA, (E & F)/PCCF & HoFF, Principal

Secretary GoA, Mines and Minerals Department, Director of Geology and Mining, *etc.* from time to time.

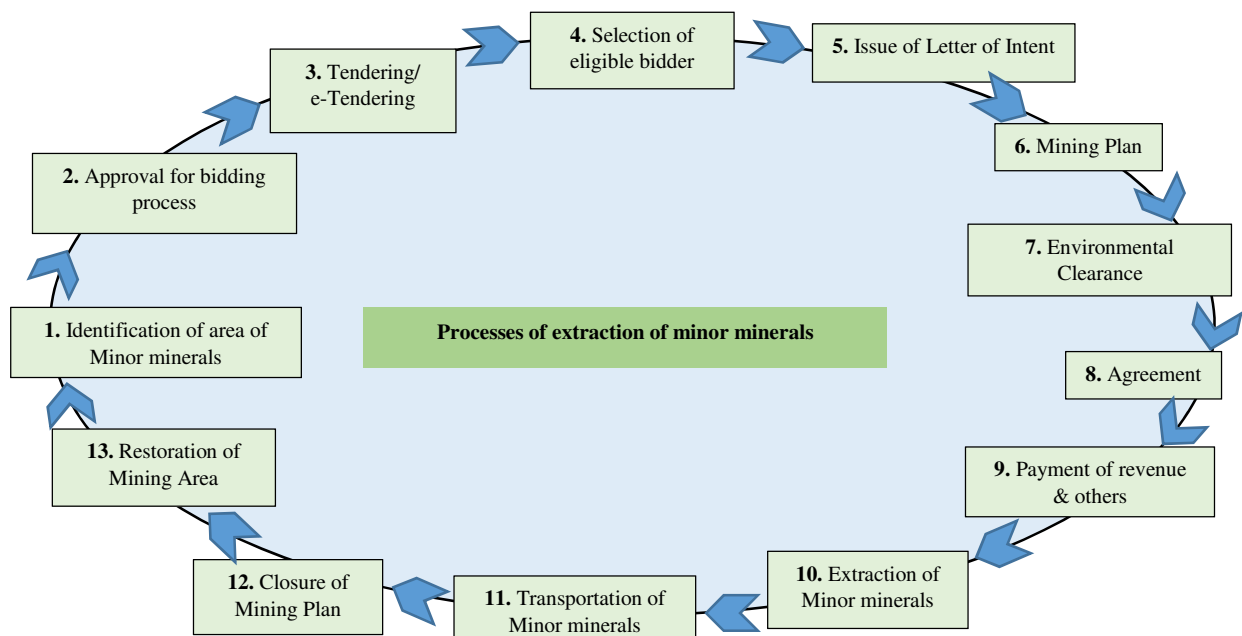
4.3.6 Scope of Audit and Methodology

- Administration and management of minor minerals for the period from 2016-17 to 2020-21 was reviewed.
- The records of the Principal Secretary, Mines & Mineral Department, Additional Chief Secretary, Environment and Forests Department, Directorate of Geology and Mining, Assam and PCCF & HoFF, Assam and selected divisions were scrutinised.
- Joint Inspection/Verification along with Departmental authorities was conducted to assess the extent of non-compliance with stipulated terms and conditions as per requirement.
- 11 divisions⁸⁶ (out of 33 territorial divisions) were selected based on Probability Proportional to Size Without Replacement (PPSWOR) sampling method taking revenue involvement of each division as the criteria.

The Performance Audit commenced with an entry conference (05 August 2021) wherein the audit objectives, criteria and scope of audit and methodology was discussed. The audit observations were discussed in an Exit Conference (06 December 2022) and views expressed and replies furnished were included in the Audit Report appropriately.

4.3.7 Processes of extraction of minor minerals:

The process of extraction of minor minerals are depicted in the diagram below:



Source:-Graphical representation of the process as defined in AMMCR, 2013

⁸⁶ DFOs (Territorial), (1) Nagaon,(2) Dhubri, (3) Nagaon South, (4) Golaghat, (5) Digboi, (6) Dhemaji, (7) Karimganj, (8) Dibrugarh (9) Hamren, (10) Dhansiri, and (11) Baksa *i.e.*, eight from State and three from Council area.

4.3.8 State Mineral Policy

The National Mineral Policy (NMP), 2008 was adopted by the Central Government to identify opportunities, regularise and simplify mining processes and check illegal mining. Accordingly, the Ministry of Mines had circulated (October 2009) a draft model State Mineral Policy, 2010 for states to develop suitable mineral policies within the ambit of the NMP keeping in view their local requirements. The draft model emphasised on the following:

- Minerals required to be conserved through improvement in mining methods, beneficiation and utilisation of low grade minerals;
- For systematic and complete extraction of minerals, the conditions of mining leases with reference to geological boundaries and others should be governed favourably;
- Reframe the terms of references of extraction of minerals covering aspects like Sustainable Development Framework, prevention of illegal mining, *etc.*

However, Government of Assam (GoA) has not developed any Mineral Policy on the lines of the model State Mineral Policy even after a lapse of more than 11 years. Further, none of the above-mentioned major aspects is fully covered in the AMMCR. For example, the Rules call for preparation of MP for systematic extraction of minerals, but the mandatory aspects to be included in the MP were not spelt out nor were the guidelines issued by the Indian Bureau of Mines (IBM) followed while preparing the MP. Similarly, the issue of transport pass has been prescribed in the Rules to prevent illegal mining/pilferage, however, the modalities for issue, verification and prevention of multiple use of transport pass have not been institutionalised.

In reply (July 2022), the Department of Mines & Minerals GoA stated that necessary process has been initiated to formulate a State Mineral Policy. As such, the State continued to administer mines and minerals without a comprehensive and inclusive mineral policy.

Recommendation: *Government may consider early finalisation and implementation of the State Mineral Policy.*

4.3.9 Overview of Assam Minor Minerals Concession (AMMC) Rules, 2013

In January 1995, GoA introduced the Assam Minor Mineral Concessions Rules, 1994 in accordance with the provision of Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957 to regulate the minor minerals in the State.

In February 2012, Hon'ble Supreme Court directed the State Governments to frame necessary rules under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 taking into consideration model guidelines issued⁸⁷ (2011) by the Ministry of Mines, GoI. Accordingly, in 2013, the GoA has introduced the AMMC

⁸⁷ Issued by Ministry of Mines, Indian Bureau of Mines vide No. 296/7/2000/MRC dated 16-05-2011.

Rules, 2013 as per provisions of Section 15⁸⁸ and Section 23 C⁸⁹ the MMDR Act, 1957 superseding the AMMC Rules, 1994.

The administration and regulation for granting of various mineral concessions and prevention of illegal mining are guided by the provision of the AMMC Rules, 2013 as mentioned below:

Rules 1 to 7	Preliminary and General Restrictions
Rules 8 to 31	Granting of Mining Area (Mining Lease, Mining Contract and Mining or Quarrying Permit)
Rules 32 to 37	Procedure for inviting competitive bids/auctions and payments
Rules 38	Collection of royalty, fees, <i>kist</i> money, <i>etc.</i>
Rules 39 to 47	General condition for grant of any mineral concession and payment of rent and compensation to the landowners and determination thereof
Rules 48 to 57	Scientific and systematic mining and environmental safeguards and Regulation and control of mining operations
Rules 58 to 79	Mines and mineral Department, Restoration and Rehabilitation Fund and Delegation, review and appeals along with Miscellaneous subjects

Audit Findings

4.3.10 Allotment of Mining Areas

4.3.10.1 Identification of areas with extractable minor minerals

In view of rapid urbanisation, there is a huge demand for minor minerals in Assam. Therefore, identification of suitable mining reserves with appropriate mapping and environmental safeguards for extraction of mineral is necessary to ensure developmental initiatives. The process of extraction of minor mineral commences with identification of areas of aggradations or deposition where mining can be allowed⁹⁰.

Rule 8 (1) of AMMC Rules, 2013 provides that no mining lease shall be granted by the competent authority unless it is satisfied that there is evidence to show that the area for which grant of mining lease is considered has been prospected earlier for minor mineral or the existence of minor mineral therein has been established otherwise.

However, the process of such identification of areas with evidence of extractable minor minerals was not defined in the AMMC Rules, 2013.

⁸⁸ Power of State Governments to make rules in respect of minor minerals → Section 15.

⁸⁹ Prevention of illegal mining → Section 23 (C).

⁹⁰ Guidelines under Mineral Conservation and Development Rules (MCDR), 2017 for United Nations Framework Classification of Mineral Reserves/ Resources.

Good Practice: *In Andhra Pradesh, the District Level Committee in consultation with the concerned Conservator of River/ Executive Engineer, Irrigation Department and the Director of Ground Water Department identifies the sand bearing areas and available quantity, etc.*

There are no specific provisions under AMMC Rules, 2013 involving scientific assessment for identification of areas bearing minor minerals, preparation of comprehensive mine plan for contiguous stretches of mineral deposits, identification of specific river stretches, preparation of detailed hydro-geological report for minor minerals, *etc.* as suggested by the Hon'ble Supreme Court (in February 2012). Accordingly, the respective forest divisions prepared preliminary information before initiating bidding process for extraction of minor minerals from a particular area by including geo-coordinates, types of minor minerals, available quantity, forest type and density, *etc.* without any scientific assessment.

On being pointed out, the Mines & Minerals (M&M) Department, Assam stated (January 2023) that steps have already been initiated for inclusion of necessary provisions in the AMMC Rules, 2013 for identification of areas bearing minor minerals with scientific assessment.

Further, DoE&F, Assam stated (January 2023) that MP and Environment Clearance (EC) were obtained and approved by the concerned DFOs which meets the objectives of scientific assessment. However, DoE&F remained silent about the process of identification of MCAs.

4.3.10.2 Status of Mineral Concession Areas

The AMMC Rules, 2013 were introduced in Assam covering a total of 404 MCAs under the jurisdiction of 22 Forest (Territorial) divisions excluding⁹¹ MCAs in Sixth Schedule areas⁹². Audit noticed that the number of MCAs under those 22 Forest Divisions decreased from 404 declared MCAs in 2013 to 312 MCAs in 2021. The Department stated that the decrease in operational MCAs is mainly attributable to declaration of eco-sensitive zones, insufficient quantity of minor minerals, *etc.* Of the total existing 312 MCAs in 2021, Audit noticed that only 128 MCAs were settled with bidders, settlement of 140 MCAs was in progress and remaining 44 MCAs remained idle due to Court cases as on 31 August 2021.

On being pointed out, DoE&F stated (January 2023) that steps are being taken to make the idle MCAs operational.

4.3.10.3 District Survey Report not prepared

In 2016, GoI introduced the concept of District Survey Report (DSR) by amending the Environment Impact Assessment Notification, 2006 with an objective to ensure identification of areas of aggradations or deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and

⁹¹ Related data were not available with the Department.

⁹² Involves 11 Forest Divisions.

installations where mining should be prohibited and time required for replenishment after mining in that area.

The DSRs are required to be prepared for each minor mineral in each district separately by the District Environment Impact Assessment Authority (DEIAA) with the assistance of Geology Department, Irrigation Department, Forest Department, Public Works Department, Ground Water Board Remote Sensing Department, Mining Department, etc. in the district. The DSR should contain the mineral potential and its location, depth of minable mineral and quantity of minerals of the district. The DSR shall be updated once in every five years and placed in the public domain.

In April 2016, GoA instructed Mines and Minerals Department, Assam to initiate preparation of DSR; however, the Department had not prepared a single DSR till June 2022. Thus, due to non-preparation of DSR, the identification and quantification of reserves was limited to field verification carried out by the forest divisions without consulting other departments to adopt scientific methods.

On being pointed out, the M&M Department stated (January 2023) that provision of DSR is not included in the AMMCR, 2013. The fact remains that in spite of GoA's instruction (April 2016) for preparation of DSR, the Department has not prepared any DSR till February 2023.

Recommendation: *The Government may ensure that the DSRs are prepared in a time-bound manner.*

4.3.10.4 Sand gravel not included in list of minor minerals

A mixture of sand and gravel forms an aggregate⁹³ (in Assam, it is known as sand-gravel), which is one of the most important construction materials. The main source of sand-gravel is the river bed, extraction from which requires environmental safeguards. Mention was made in Sustainable Sand Mining Management Guidelines, 2016 framed by Ministry of Environment, Forest and Climate Change that the mining of aggregates has reached a level threatening the environment and ecosystem besides threats to the economy.

In Assam, sand and gravel were notified separately in Schedule "Y" of AMMC Rules, 2013 in accordance with Section 3 (e) of MMDR Act, 1957. Moreover, after commencement of AMMC Rules, 2013, permits for extraction of sand-gravel from 41 MCAs were issued in Assam. Accordingly, in February 2017, the PCCF & HoFF issued⁹⁴ a clarification stating that there is no mineral namely 'Sand-gravel' in Schedule "Y" of AMMC Rules, 2013 and therefore, classification of minor mineral as 'Sand-gravel' is not admissible for mineral concession. Despite this, audit noticed that permits for extraction of sand-gravel were issued for government works in 29 out of 128 MCAs during 2017-21.

⁹³ Sand particles lies between 0.15 to 4.75 mm in diameter (IS 383-1970), while the size of gravel lies between 10 mm to 63 mm.

⁹⁴ Against a prayer petition in June 2014 by a MC holder.

Further, audit noticed that Mines & Minerals Department had notified⁹⁵ the rate of royalty in respect of sand and gravel separately along with other minor minerals. Thus, in AMMC Rules, 2013, there was no provision to treat these two minor minerals as one. In spite of this, the Chief Conservator of Forest (Planning)⁹⁶, had directed⁹⁷ levy royalty on sand-gravel at the same rate as that on gravel *i.e.*, on the higher side of royalty⁹⁸.

During the period 2013-21, five out of the 11 selected divisions had issued permits for sand-gravel. Audit noticed that of these five divisions, two divisions collected royalty at the rate prescribed for gravel (*i.e.*, ₹ 200 per cum) while three had collected royalty for sand-gravel at rates varying from ₹151 to ₹ 164 per cum as shown in **Table 4.3**.

Table 4.3: Revenue collection from Sand Gravel for Govt. Permit during 2013-14 to 2020-21

Sl. No	Name of Division	Details of Permit issued		Rate per cum fixed (in ₹)	Total Revenue collected (in ₹)
		No.	For quantity (cum)		
1	Baksa	226	1,94,783.28	164	3,19,44,457
2	Dhansiri	83	86,122.14	164	1,41,24,031
3	Nagaon	43	10,369.44	151	15,65,785
4	Digboi	12	13,500.00	200	27,00,000
5	Dhemaji	195	45,234.93	200	90,46,986
Total		559	3,50,009.79		5,93,81,260

Thus, despite sand-gravel not featuring in the list of minor minerals, the issuance of permits for sand-gravel as a separate category of minor mineral at various royalty rates was irregular.

On being pointed out, the M&M Department stated (January 2023) that geologically sand and gravel are two different minerals and accordingly included separately in AMMC Rules, 2013, while sand-gravel is the mixture/aggregate of sand and gravel in different proportional percentages, therefore, classification of minor mineral as 'sand-gravel' is not fit for mineral concession.

However, DoE&F, Assam stated (January 2023) that steps will be taken to make royalty rate of sand-gravel regular and systematic.

Recommendation: *The Government may review the need for inclusion of sand-gravel as a separate minor mineral, and issue suitable guidelines for setting the royalty rates based on a scientific assessment of the composition of sand and gravel found in Assam to prevent such variation in the rates of royalty.*

4.3.10.5 Non-formation of Cluster of Mineable Areas

The Committee on Minor Minerals constituted (2011) by the GoI recommended a minimum lease size of 5 hectares (ha) for minor minerals for undertaking scientific mining for the purpose of integrating and addressing environmental concerns. In 2012, Hon'ble Supreme Court while delivering judgement on requirement of environmental clearance in respect of area less than 5 ha also recommended to implement cluster of minable areas having 5 ha or more, so that eco-friendly scientific and sustainable

⁹⁵ Notification No-PEM-83/2009/Pt-VII-A/39 dated 17 June 2015.

⁹⁶ Office of the Principal Chief Conservator of Forest, Head of Forest Forces (PCCF & HoFF), Assam

⁹⁷ Letter No-FA.12/CAG/11-12 on 5 December 2012.

⁹⁸ Rate of royalty of Gravel → ₹ 200 and rate of royalty of Sand → ₹ 140.

mining practices could be adopted. The committee⁹⁹ constituted by the PCCF & HoFF (April 2013) also suggested (April 2013) that the adjoining/contiguous areas should constitute one mining area and areas in proximity shall be put into one cluster.

A perusal of the AMMC Rules, 2013, shows that these rules neither have any provisions for formation of cluster of mineable areas nor have any steps been taken by the Government to incorporate the recommendations of both the Committees through amendment even after lapse of eight years from implementation of the AMMC Rules, 2013. Audit observed that in Assam, out of 128 settled MCAs as of August 2021, there were 66 MCAs having less than 5 Ha area as of March 2021.

On being pointed out, DoE&F stated (January 2023) that cluster approach had already been initiated by clubbing nearby MCAs. Recently, new MCAs are identified in the form of cluster having area more than 5 Ha and with minimum extractable quantity of 10,000 cum/year. Further, the M&M Department, Assam stated (January 2023) that necessary process would be initiated to include provisions for formation of cluster of mineable areas in AMMC Rules, 2013.

Recommendation: Government may consider to insert the provision for formation of cluster in the AMMC Rules through amendment and implement the same to ensure eco-friendly, scientific and sustainable mining.

4.3.11 Mineral Concession Area as Lease, Contract and Permit

The AMMC Rules, 2013 provide that the mineable areas are to be allotted as MCA¹⁰⁰ under three categories viz., Mining Lease, Contract and Permit, segregated on the basis of period of allotment. In this regard, audit observed the following:

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|--|
| <p>I) Mining lease → grant is considered for such MCA which was prospected earlier and for a period ordinarily not less than of 10 years but not exceeding 20 years following a competitive bid process.
(Rules 8 to 17 of AMMC Rules, 2013).</p> <p>II) Mining Contract → for a specified annual quantity of minor mineral for a period ordinarily not less than 7 years but not exceeding 10 years following a competitive bid process.
(Rules 18 to 22 AMMC Rules, 2013).</p> <p>III) Mining Permit → for a specified quantity of minor minerals to be extracted /collected within a specified period not exceeding two years in specified cases on payment of advance royalty.
(Rules 23 to 31 AMMC Rules, 2013).</p> |
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4.3.11.1 Settlement of MCAs for a shorter term

The Hon'ble Supreme Court viewed (in 2012) that if the tenure of the mine lease is short, it would encourage the lessee to concentrate more on rapid exploitation of mineral without really undertaking adequate measures for reclamation and rehabilitation of mined out area, posing thereby a serious threat to the environment and

⁹⁹ PCCF & HoFF constituted (April 2013) a Committee to adopt uniform system for smooth execution and to suggest the various aspects of AMMC Rules, 2013.

¹⁰⁰ Mineral Concession (Rule 2(q)) means a mining lease or a mining contract or permit in respect of minor mineral and includes quarry permits and any other mineral concession permitting the mining of minor mineral in accordance with the provision of these rules.

health of the workers and public at large. As such, the Hon'ble Supreme Court recommended that the minimum period of a mine lease should be five years, so that eco-friendly, scientific and sustainable mining practices are adopted. However, under exceptional circumstances arising due to judicial interventions, short term mining leases/contracts could be granted to the State agencies to meet the situation arising therefrom.

In 11 selected divisions, out of 175 MCAs¹⁰¹ (including MCAs in Sixth Schedule Areas) settled during 2014-21, 64 MCAs were settled as permits for a period of two years, nine MCAs were settled as contracts for a period of three years, 17 MCAs were settled as contracts for a period of five years and 85 MCAs were settled as contracts for a period of seven years.

Further, audit noticed 13 MCAs (**Appendix-XXVI**) under Dibrugarh and Nagaon divisions were settled through mining permits for two to three times for a period not exceeding two years in each spell during 2014-21. However, the Department has not initiated any steps for settlement of these MCAs through mining contract or lease *i.e.*, for a longer period of five years or more to avoid the gap period between settlement of permits and adopting eco-friendly, scientific and sustainable mining practices as recommended by the Hon'ble Supreme Court.

Audit also noticed that 26 MCAs were settled as contracts for a period of three or five years without recorded reasons for settlement of these MCAs for less than seven years (as specified in Rule 18 of AMMC Rules, 2013). However, the Department did not initiate pre-feasibility report regarding availability of minor minerals for scientific mining for longer period.

On this being pointed out, DoE&F stated (January 2023) that the MCAs were settled for a period of two years or less for utilisation of minor minerals in government development works. The reply of the Department is not based on facts as Audit noticed that 13 MCAs under two selected divisions were repeatedly settled for non-government purposes through tendering process for two years.

4.3.11.2 Absence of provisions in the AMMC Rules, 2013

The AMMC Rules, 2013 provides for grant of mining permit for minor minerals either to the Departments notified by the State/Central Government based on applications or following a competitive bid process for a specified annual quantity of minor minerals not exceeding two years. However, audit noticed that the following aspects are not adequately covered in the Rules *ibid*.

- In view of the high cost of extraction in cases of extraction of smaller quantity of minor minerals by departmental contractors, the Rules *ibid* did not provide for supply of minor minerals by the MC holders to the departments at departmental rates.

¹⁰¹ Out of 257 MCAs, 175 MCAs were settled and 82 MCAs are in progress.

- The Rules *ibid* did not have provisions to prevent issue of indent by the Departments in excess of requirement and actual removal of minor minerals to avoid blocking of mineable minerals as well as illegal removal. Audit noticed that though indents were issued by various Government Departments for granting permits, however, these were neither monitored nor pursued by the divisions to safeguard against the loss of Government revenue as well as damage to the environment.

In Nagaon South Division, against the indent¹⁰² of 17,500 cum of sand (valid for three years), 4,550 cum of sand was shown as extracted as per Divisional records. However, on cross-verification of the records of the indent issuing authority, it was noticed that 13,950 cum sand has been utilised for the work. Similarly, in Digboi, against an indent¹⁰³ of 1000 cum of sand (valid for nine months), only three cum of sand was shown as extracted. On similar cross verification of the records of the indent issuing authority, it was noticed that 547 cum of sand had been utilised for the same.

From the above, it is clear that 9,944 cum¹⁰⁴ sand was extracted against the allocation of 18,500 cum of sand without payment of royalty.

On this being pointed out, the M&M Department stated (January 2023) that necessary steps would be taken to put in place a computerised database to monitor project-wise utilisation of minor minerals by user departments. Further, DoE&F, while accepting the audit observation, stated (January 2023) that notices have already been issued to the defaulters for realisation of short payment of royalty.

Recommendation: *The Government may put in place a computerised database to monitor project-wise utilisation of minor minerals by the user departments so as to prevent unauthorised extraction of minor minerals by the contractors.*

4.3.11.3 Regulation of MCAs

The AMMC Rules, 2013 provides for settlement of MCA for extraction of minor minerals through mining lease or contract or permits followed by a competitive bid process. All lessees/MC holders are liable to pay minimum amount called annual dead rent (or annual contract money) in a year irrespective of the fact as to whether or not the area is operated fully or partly and the amount of annual dead rent is determined

¹⁰² Issued (October 2017) by the EE, PHE, Hojai Division.

¹⁰³ Issued (October 2020) by the EE, PWD (R), Dhuliajan.

¹⁰⁴

Name of Division	Quantity sand as per indent (in cum)	Quantity of sand extracted as per division's record (in cum)	Quantity of sand utilised by contractors as per user Department (in cum)	Quantity of sand utilised without permit (in cum)
(1)	(2)	(3)	(4)	(5) = (4) – (3)
Nagaon south	17,500	4,550	13,950	9,400
Digboi	1,000	3	547	544
Total				9,944

based on annual bid value of the lessee. The bid amount depends on the reserve price¹⁰⁵ (i.e., minimum price of the minor minerals) fixed by the Department, which plays an important role in determination of its annual dead rent/contract money.

4.3.11.4 Lop-sided fixation of Reserve Price

The AMMC Rules, 2013¹⁰⁶ provides that the competent authority shall upfront determine the reserve price in each case where mineral concessions are granted through competitive bidding or open auction, as the case may be. The reserve price may be fixed keeping in view the past trends, availability of mineral reserve in the area, the potential, access and proximity to the markets. However, in case no bid is received against the reserve price fixed for an area on two successive occasions, the reserve price may be revised downward.

Audit noticed that in Dhansiri and Nagaon Divisions, the tenders were invited for three MCAs stating reserve price below the reserve price actually calculated by the divisions on the basis of past trends of these MCAs without recording any reasons thereof, which had an impact on the final bidding price of the MCAs. This resulted in minimum loss of Government revenue of ₹ 29.17 lakh. The details are shown in **Table 4.4:**

Table 4.4: Details of quoting of reserve price in tenders

Sl. No.	Name of MCA (Date of inviting NIT)	Types of MMs	Qty of MMs per year	Period of contract in Year	Details of last settlement			Reserve Price fixed by the Division	Total Value of MMs as per Reserve Price fixed by the Division	Reserve Price stated in NIT (in ₹/ cum)	Accepted bid value (in ₹/ cum)	Loss of revenue (in ₹/ cum)	Total Loss of Revenue in 7 years (₹ in lakh)		
					Year	RP	Minimum RP	(in ₹/ cum)	(₹ in lakh)						
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13) = (9) – (12)	(14) = (4) X (5) X (13)		
Dhansiri Division															
1	Beltola S.S.G. Mahal (06-07-15)	Sand	2200	7	2009	154	240	210	253	74.48	140	178	205	48	14.11
		Stone	2000			222	346	301			220				
2	Daisam Boulder Mahal (19-04-19)	Boulder	3200	7	2009	130	203	220	49.28	203	200	20	4.48		
Nagaon Division															
3	Jamunamukh Kapili 1(A) (22-10-19)	Sand	30000	7	2014	151	236	151	317.1	143	146	5	10.58		
Total												29.17			

¹⁰⁵ Percentage of value of mineral despatched as referred in sub-rule (1) of rule 8 of Mineral (Auction) Rules, 2015.

¹⁰⁶ Rule 33 of AMMC Rules 2013.

On this being pointed out, DoE&F stated (January 2023) that lop-sided fixation of reserve price in respect of MCAs under Dhansiri Division was done wrongly while fixation under Nagaon Division was done due to non-receipt of bids on two consecutive occasions. The reply of the Department was not acceptable as the Committee constituted for revising the reserve price of MCAs under Nagaon Division had recommended to reduce the reserve price, mining quantity and mining period. However, audit noticed that though the above MCAs were settled with a reduced reserve price, mining quantity and mining periods were not reduced.

4.3.11.5 Granting of MCA to the lowest bidder

Audit noticed that two Divisions (Baksa and Dhansiri) under the control of Bodo Territorial Council (BTC) had settled two MCAs with the lowest tenderer instead of highest tenderer following the direction of the Addl. PCCF & CHD, Forest, BTC¹⁰⁷ as shown in **Table 4.5**.

Table 4.5:-MCAs settled with the lowest bidders

Name of the Division	Name of the MCA (Date of settlement)	Govt Value	Number of Tenders received	Value of Eligible Highest Tender (in ₹)	Value of awarded Tender (in ₹)	Loss of Government Revenue (in ₹)
Baksa	Motonga Sand and Stone Mahal No.4 (01-10-2015)	26,95,000	4	29,40,000	28,00,000	1,40,000
Dhansiri	Deepabasti Stone Mahal (09-09-2019)	14,00,000	3	28,00,000	14,18,000	13,82,000
Total						15,22,000

This had resulted in loss of revenue of ₹ 15.22 lakh.

Audit further noticed that in the same two divisions, another three MCAs¹⁰⁸ were initially settled with the lowest bidders. Aggrieved with the settlement orders, the highest eligible bidders appealed before the court and on the direction of the Hon'ble Gauhati High Court, these MCAs were finally settled with the respective highest bidders.

Similar irregularities of awarding contract to the lowest bidder instead of eligible highest bidder had been pointed out by Audit in Audit Report of 2018-19 (Paragraph 4.5.3); however, due to inaction of the Department such irregularities are still persisting.

On this being pointed out, DoE&F stated (January 2023) that the aforesaid MCAs were settled by the Principal Secretary of BTC, Bodoland. The reply is not acceptable as there was no provision in AMMC Rules, 2013 for settlement of MCAs in favour of the lowest bidder.

¹⁰⁷ Addl. PCCF & CHD, Forest BTC order dated 01.07.2015 for Motonga Sand & Stone Mahal No. 4, Baksa and dated 06.09.2019 for Deepabasti Stone mahal, Dhansiri.

¹⁰⁸ Montonga Sand & Stone Mahal No. 3 and Montonga Sand & Stone Mahal No.5 of Baksa Division and Dhansiri Sand and Gravel Mahal of Dhansiri Division.

4.3.11.6 Settlement of MCA at exorbitant rates without analysis

Rule 33 (3) of the AMMC Rules *ibid* provides that any abnormalities in the auctions held earlier and the bids received of exceptionally lower or higher amount, may be ignored. The Central Vigilance Commission, GoI, also instructed¹⁰⁹ that awarding of the contracts at too high a price needs to be discouraged and the organisations must ensure that contracts are awarded on the basis of competitive bidding at reasonable rates.

Audit noticed that in Dibrugarh Division, in case of two MCAs, the bidders were selected for grant of MCAs, though the bidders offered an exorbitant value in consideration against the reserve price of minor minerals fixed by the Department. However, the selected bidders failed to pay the deposits as required prior to execution of agreement in each case. Due to the failure of the highest bidders to deposit the initial dues, the Department was compelled to invite fresh tenders on each occasion. Finally, the MCAs were settled with the highest bidders after third NIT with a price just above the reserve price in each case. The details are shown in **Table 4.6**.

Table 4.6: Grant of MCA against exorbitant rates without analysis in Dibrugarh Division

Sl. No	NIT No.	Date of NIT	Name of successful bidder	Qty of Sand in M ³	Reserve Price per M ³ (in ₹)	Period	Date of LoI	Bid offered	Offered rate per M ³ (in ₹)
Name of MCA : DBR 18									
1	1st	26-09-13	Dilip Sonowal	5000	194	2013-15	20-12-13	3,17,20,500	6,344
2	2nd	13-02-14	Dilip Borgohain	5000	194	2014-16	06-08-14	2,35,65,551	4,713
Finally allotted to Shri Mohan Gogoi @ ₹ 196 per cum on 27 January 2017									
Name of MCA : DBR 15									
1	1st	26-09-13	Debojit Borgohain	6000	196	2013-15	24-01-14	39,99,999	666
2	2nd	05-08-16	Chandan Gogoi	6000	196	2016-18	10-11-16	50,00,000	833
Finally allotted to Shri Nilmoni Konwar @ ₹ 206 per cum on 01 November 2017									

Thus, due to non-analysis of the rates quoted by the bidders and settlement of MCAs with highest bidders in spite of exorbitant rate of minerals offered resulted in inordinate delay in settlement of MCAs ranging between 2 years to more than 3 years resulting in a loss of ₹ 27.34 lakh calculated on the reserve price.

Audit noticed that in Karimganj Division, while finalising the successful bidder of 62 Hal Baruala Sand Minor Mineral Unit (MMU) rejected the highest bidder and selected the second highest bidder in the interest of smooth realisation of Government revenue and to avoid gap period. While rejecting the highest bidder, it was recorded that the rate offered by the highest bidder was exorbitant as the offered price was seven times more than the reserve price.

Audit noticed that the PCCF & HoFF directed (June 2015) to enquire¹¹⁰ into the reasons for the sharp decline of bid values during the third NIT in case of DBR 18. The DFO

¹⁰⁹ Vide letter No.OFF-1-CTE-1 dated 05.02.2004.

¹¹⁰ As per instruction of PCCF & HoFF, Assam.

reported¹¹¹, that the following were the reasons for sharp decline of bid value in the third NIT.

- During the first two NIT, the offer was made intentionally at a higher rate to spoil the bids:
- First two offers were without site inspection and assessment of minable quantity by the bidders
- Third offer was low due to presence of silt in large quantity.

From the enquiry report, it is clear that the bidding process was manipulated by the bidders and no action was taken against the officers who had accepted such exorbitant offers without analysis of bid value with market price which caused delay in settlement of the MCA.

Thus, there was no uniformity in the decisions taken by Forest Divisions on the reasonableness of the bid value.

On this being pointed out, DoE&F stated (January 2023) that there is no provision for settlement of MCA at exorbitant price in AMMC Rules, 2013; however, due to small quantity of mineral in NIT, bidders offered exorbitant prices. At present, the minimum quantity was fixed at 10,000 cum per year and the mining plans would be prepared by the divisions in advance to restrict offer of exorbitant rates during bidding. The justification provided by the Department is not acceptable as Rule 67 of AMMC Rules, 2013 provides scope for review of the orders by the PCCF & HoFF; however, in the instant case, the same was not reviewed even though the highest bidder of the first NIT failed to deposit the initial dues.

Recommendation: *The Government may consider putting in place a mechanism to analyse the bid value for its reasonableness and workability before acceptance so that bids with exorbitant bid values could be discarded.*

4.3.11.7 Irregular settlement of MCA

(A) Audit noticed that against an NIT (August 2013), 12 tenders were received for extraction of 4000 cum of sand per *annum* from Doboka Sand Mining Unit-2 of Nagaon South Division. Out of 12 tenderers, eight tenderers quoted their offer rate for the entire period of contract (*i.e.*, seven years) while four tenderers quoted annual offer rate. The tender committee, while preparing the comparative statement, did not convert the annual offered rate into total offered value for the entire period of seven years. Consequently, the highest bidder who offered annual rate of ₹ 28.22 lakh was overlooked and the bidder with offered value of ₹ 75 lakh for the entire contract term of seven years (*i.e.*, ₹ 10.71 lakh per *annum*) was selected and granted (January 2014) the contract. Aggrieved with the settlement order the highest bidder approached the Hon'ble Gauhati High Court and the case was disposed of (September 2014) in favour

¹¹¹ Submitted by the DFO (14 July 2015).

of the highest bidder. However, the Department took five years to settle (February 2019) the MCA, which resulted in loss of revenue of ₹1.41 crore¹¹².

(B) As per Rule 34 of the AMMC Rules, 2013, a public notice of 21 days shall be published for inviting bids or conduct of open auctions for mineral concession. In addition, the gist of such notice shall be published in one daily newspaper having circulation in the area and a copy of the public notice shall also be sent to the Deputy Commissioner and others as decided by the competent authority for giving wide publicity in the area.

Audit noticed that in five divisions, out of seven MCAs, six MCAs were granted by the PCCF & HoFF, Assam against notice period ranging from 7 to 25 days from the date of public/sale notice to tender opening date and periods ranging from 7 to 18 days from publication in newspaper to tender opening date as shown in **Table 4.7**:

Table 4.7:-Details of sale notice

Sl. No.	Name of MCA	Date of public/sale notice	Date of publication in newspaper	Tender opening date	Notice period between		Remarks
					Col 3 and Col 5	Col 4 and Col 5	
(i) Nagaon South Division							
1	Debsthān-1	17.08.13	28.08.13	09.09.13	22	11	Approved by the PCCF & HoFF on 18.12.13
2	Debsthān-2	17.08.13	28.08.13	09.09.13	22	11	Approved by the PCCF & HoFF on 18.12.13
3	Doboka sand Mining Unit-3	27.01.15	04.02.15	18.02.15	22	14	Rejected by the PCCF & HoFF (03.07.15) stating non-fulfilment of criteria of Rule 34 of AMMCR, 2013.
(ii) Golaghat Division							
4	Bokial Stone Quarry	14.06.16	21.06.16	08.07.16	25	18	First rejected by the PCCF & HoFF (20.07.16) stating non-fulfilment of criteria of Rule 34 of AMMCR, 2013. After intervention of DFO, Golaghat stating tenders were opened after 25 days from the date of sale notice, the PCCF & HoFF granted (25.04.17) the MCA to successful bidder.
(iii) Dhemaji Division							
5	Likabali S&G	16.08.13	23.08.13	11.09.13	25	18	Approved by the PCCF & HoFF on 27.02.14
(iv) Nagaon Division							
6	Borpani- 1 A	08.08.14	12.08.14	30.08.14	23	18	Approved by the PCCF & HoFF on 09.01.15
(v) Dibrugarh Division							
7	DBR-18	13.02.14	13.02.14	19.02.14	7	7	Approved by the PCCF & HoFF on 06.08.14

From **Table 4.7**, it is clear that DBR 18 MCA was awarded against notice period of seven days from the date of public/sale notice and tender open date against the provision of 21 days in the Rules *ibid*, while two MCAs *viz.*, Doboka sand Mining Unit-3 and Bokial Stone Quarry were rejected by the PCCF & HoFF stating that provision of Rules *ibid* were not fulfilled during public notice. However, the MCA *viz.*, Bokial Stone

¹¹² Gap period calculated from settlement to final agreement *i.e.*, from 01.01.14 to 06.02.19 *i.e.*, lapse of 5 years (₹ 28,21,999 X 5 years).

Quarry were granted by the PCCF & HoFF after intervention/approach of the DFO, Golaghat stating that the notice period was 25 days from issuance of public notice. Audit also noticed in respect of Doboka Sand Mining Unit-3 that aggrieved with the order, the highest bidder appealed in the Hon'ble Gauhati High Court and the petition was disposed of (November 2020) due to non-appearance of the petitioner in the court. Thus, due to irregular rejection of the bidding/sale notice, the MCA remained idle for more than eight years¹¹³, which resulted in loss of minimum revenue of ₹51.68 lakh¹¹⁴. Thus, irregular decision by the authority on fixing of gap period between issue of sale notice and opening of NIT resulted in loss of revenue to the Department.

On this being pointed out, DoE&F stated (January 2023) that e-auction process has been initiated to avoid any discrepancy in settlement of MCA.

4.3.11.8 Non-reduction of reserve price

The AMMC Rules *ibid* provide that in case no bid/offer is received against a reserve price fixed for an area on two successive occasions, the competent authority may revise the reserve price downwards to an appropriate level. Further, clause No. 8 of Tender sale notice of Mineral Concession Area (MCA) mentions that the tenderers should offer their bids only after fully satisfying themselves regarding availability and quantity of materials in the respective MCAs.

Audit noticed that in two (out of 11 selected) divisions¹¹⁵, though tenders for grant of seven MCAs¹¹⁶ were invited, no tender was received on two successive occasions. The Department did not take further initiative to identify the reasons for non-receipt of tenders and re-consideration of the reserve price for the respective MCAs. These MCAs remained idle (March 2022) since October 2016 due to inaction of the Department to negotiate the reserve price of MCAs.

On this being pointed out, DoE&F stated (January 2023) that a Committee was formed to ascertain the actual extractable quantity available. The Committee recommended to amalgamate six unsettled MCAs under Golaghat Division into three MCAs. Accordingly, MCAs were amalgamated. Out of these, two MCAs were settled and one MCA was demarcated for Government permits due to non-availability of successful bidders.

4.3.11.9 Fixation of floor price on the basis of Reserve Price

GoA amended (October 2018) the AMMC Rules, 2013¹¹⁷ introducing the process of e-tendering¹¹⁸ for grant of all mining leases/contracts/permits through a transparent

¹¹³ During January 2015 to November 2022.

¹¹⁴ Minimum loss- Reserve price 6,08,000 x 8 years 6 months= ₹ 51,68,000

¹¹⁵ Dibrugarh and Golaghat.

¹¹⁶ Six MCAs under Golaghat Division (*viz.*, (i) Bandar Ghat Sand/Stone Mahal No.1, (ii) Bandar Ghat Sand/ Stone Mahal No.2 (iii) Bandar Ghat Sand/Stone Mahal No.3 (iv) Bandar Ghat Sand/Stone Mahal No.4 (v) Kanaighat Sand Mahal No.1/2 (vi) Kanaighat Sand Mahal No. 1/1 and one under Nagaon Division (*viz.*, Sonaikuchi Sand Permit Area).

¹¹⁷ Published vide notification No. PEM.47/2018/16 dated 26 October 2018.

¹¹⁸ Under Rule 32.

process of inviting e-auction. Further, clause 8 of the Bid document for e-auction specified that the initial price offer shall be equal to or greater than the reserve price and the qualified bidders may submit their final price offer which shall be greater than the floor price.

Out of 11 selected divisions, eight divisions initiated (November 2018) e-tendering process.

Audit noticed that in four divisions, the reserve prices for e-tender were fixed without analysis of revenue trend and market value as per provisions of AMMC Rules, 2013 and fixed at royalty rates or previous reserve price. As such, the initial price for respective e-tenders were fixed either below or at par with the penultimate reserve price which had affected the floor price as per provision of Clause 8 of the Bid document as mentioned *ibid*.

Golaghat Division fixed (January 2021) the reserve prices for eight MCAs by adding 25 per cent to the last sale value of minor minerals per cum of respective MCAs. Audit noticed that the Division fixed the reserve price of Borpothor Sand Mahal No. 1 at ₹ 411 per cum from the last sale value of ₹ 329 per cum of the said MCA.

Audit further noticed that in the other 10 cases, during e-tendering, the reserve prices were not fixed as per provisions made under the AMMC Rules, 2013 which affected the floor price of e-tenders of respective MCAs and resulted in a minimum loss of ₹ 8.89 crore (**Appendix-XXVII**).

On this being pointed out, DoE&F stated (January 2023) that the reserve price is fixed as equal to or above the royalty rate and put into the e-auctioning process, hence the bidders are bound to offer appropriate bids. The reply is not tenable because as per Rule 33 of the AMMC Rules, 2013, reserve price is to be up-fronted by considering past trends where the mineral concession area is granted through competitive bidding process.

4.3.11.10 Irregular acceptance of tender

Rule 37 (1) of AMMC Rules, 2013 provides that no bid shall be regarded as ‘successful’ unless accepted by the officer competent to accept bid/tender in accordance with the provision of the Delegation of Financial Rules, 1999 of the State. Further, GoA also notified¹¹⁹ (November 2016) limits for acceptance of bid values for settlement of mining contract for minor minerals under AMMC Rules, 2013 and specified that the financial limit for acceptance of tender for DFO and Conservator of Forests (CF) are up to ₹ five lakh and ₹25 lakh respectively.

Audit noticed that three MCs under Digboi Division were settled with the approval of DFO/CF where bid values were in excess of the financial limit for acceptance of the concerned officers as stipulated in the aforesaid Government notification. No *post-facto* approval was obtained in any of these cases. Details are given in **Table 4.8**:

¹¹⁹ Government notification No. FRM.300/2012/Pt/7 dated 15 November 2016.

Table 4.8:-Details of bid approved by the DFO/CF in excess of limit for acceptance under Digboi Division

Sl. No.	Name of MC Area	Date of settlement	Period of mining	Annual bid value	Total settlement value	Tender accepted by (LOI issued)	Remarks
1	DIG-22	24-01-18	2 years	4,68,000	9,36,000	DFO	Not forwarded to CF for acceptance of bid value.
2	DIG-21	27-11-17	2 years	3,74,992	7,49,984	DFO	
3	DIG-12	03-12-16	7 years	8,22,000	57,54,000	CF	Not forwarded to CCF for acceptance of bid value

On this being pointed out, DoE&F stated (January 2023) that MCAs under Digboi Division were settled inadvertently with the approval of DFO.

4.3.12 Environmental Management Plan

A Core Group constituted (2009) by MoEF, GoI, recommended various environmental aspects associated with mining of minor minerals along with various issues¹²⁰. Based on the recommendation of the Core Group, the MoEF, GoI had issued (May 2011), a model guideline¹²¹ which specified that Mining Plan¹²² and environmental clearance is a pre-requisite to grant of MCA having an area of 5 ha and above. MP is the basic document for EC/Environmental Management Plan (EMP), Forest Clearance, *etc.* for grant of a mining area and connects the mine with all stakeholders.

The AMMC Rules, 2013 also made provisions for preparation of mining plan and environmental safeguards, restoration and rehabilitation measures of the mining area.

➤ Mining Plan

The AMMC Rules, 2013 provides for preparation of an MP¹²³ by a Recognised Qualified Person (RQP)¹²⁴ on behalf of the mineral concession holder and includes progressive and final mine closure plans. As the AMMC Rules, 2013 did not provide for any specific format or information to be incorporated while preparing the MP, audit enquired about the procedures followed while preparing the MP. In reply, the Geology & Mining Department, GoA stated that MPs were prepared following the guidelines issued by the Indian Bureau of Mines (IBM) and AMMC Rules, 2013.

The procedures to be followed while preparing the MP as prescribed by IBM are as shown in the following flowchart:

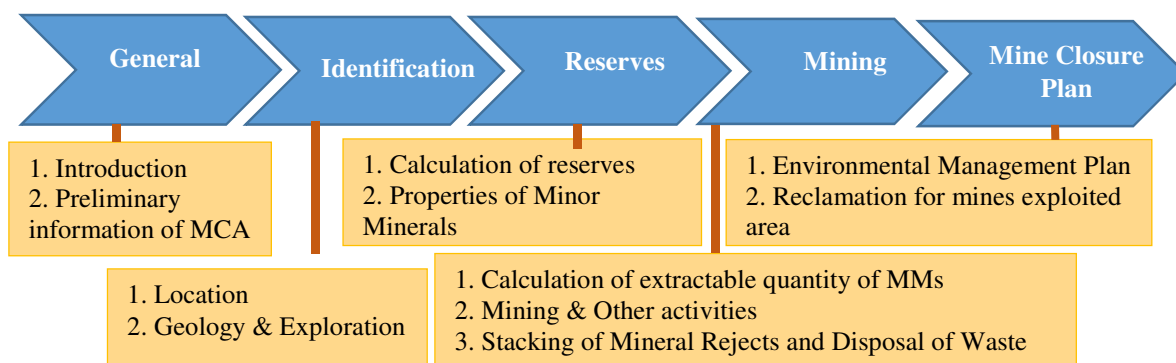
¹²⁰ (i) definition of minor mineral, (ii) minimum size of lease for adopting eco-friendly scientific mining practices, (iii) period of lease, (iv) cluster of mine approach for addressing and implementing EMP in case of small mines, (v) depth of mining to minimise adverse impact on hydrological regime, (vi) requirement of mine plan for minor minerals, similar to major minerals, and (vii) reclamation of mined out area, post mine land use, progressive mine closure plan, *etc.*

¹²¹ namely Environmental aspects of quarrying of minor minerals - Evolving of Model Guidelines

¹²² A proposal for mining on a mining site, including a description of the systematic activities to be used for the purpose of extracting minerals.

¹²³ Chapter 9& 10 (Rules 48 to 57) of AMMC Rules 2013.

¹²⁴ Director or an officer authorised by him, or by a person recognised by the Central Government or an officer authorised by the Central Government in this behalf the provision of rule 22 B of the Mineral Concession Rules, 1960. (Rules 50 of AMMC Rules 2013).



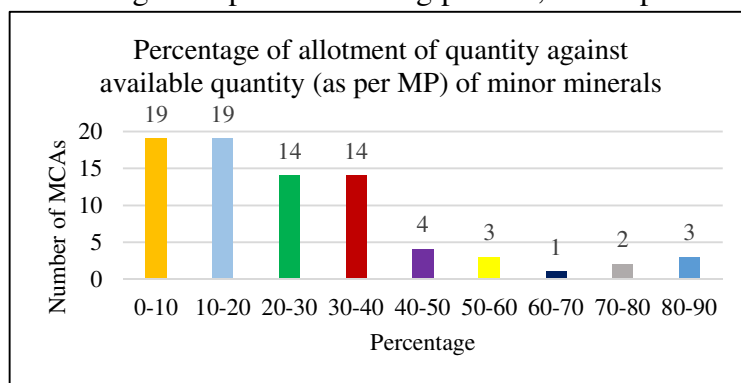
Audit noticed the following deficiencies in the MPs approved by Geology and Mining Department:

4.3.12.1 Non-compliance/shortfalls in the Mining Plans

Audit scrutinised MPs of 89 MCAs granted by the 11 sampled divisions during 2013-21 and noticed that the RQP, while preparing MPs on behalf of MC holders, did not consider all parameters suggested by the IBM. For example, the MPs did not anticipate life of the mines and volumes of mineable reserves of minor minerals and were calculated by considering maximum depth of 3 meters without considering the water level in river bed or Reduced Level (RL) distance¹²⁵ of the land bed mines. Other issues noticed are as discussed in the following paragraphs:

- During settlement of MCAs through competitive bidding process, the Department

allowed extraction of two to 86 per cent of the mineable reserve as estimated in the MPs in case of 79 river bed MCAs as shown in the chart placed alongside. Thus, due to absence of any



scientific study of extractable mineable reserves prior to NIT, a huge quantity of mineral remained unallocated for extraction, which had narrowed the scope of replenishment of minor minerals specifically in case of river bed MCAs. Therefore, preparation of MP after finalisation of selection of bidders for the specific quantity during bidding process led to shortfall in allocation of mineable minerals and scope for removal of excess minor minerals without payment of government dues. Further, in one case¹²⁶, it was noticed that allotment of quantity of minor minerals was 138 per cent against estimated quantity in the respective MP.

¹²⁵ Reduced level (RL) refers to equating elevations of survey points with reference to a commonly assumed datum. It is a vertical distance above or below the datum plane. The most common datum used is Mean Sea Level. This reduced level is the term used in levelling.

¹²⁶ Golondl Boulder Mahal under Dhansiri Division.

Good practice: In Odisha, a minimum guaranteed quantity (MGQ) of minor minerals is declared in the sale notice of minor minerals with a right to modify the MGQ as per respective MPs.

- Extraction of minor minerals was allowed to MC holders (selected through bidding process) and Government departments from the same mineable reserves overruling the Hon'ble Gauhati High Court order¹²⁷ restricting grant of Government permits from the same mineable reserves, which have already been settled with MC holders.
- One MCA was settled for extraction of sand (3000 cum per year) and stone (1500 cum per year) in Digboi Division¹²⁸, however, MP was prepared for extraction of stone only. Further, audit noticed that EC was obtained for extraction of both sand and stone without any mining plan for extraction of sand.
- In four MCAs of two divisions, the allotted quantities of minor minerals during NITs ranged from six to 33 *per cent* against the available quantities of minor minerals as per respective mining plans. However, the respective MC holders, after completion of periods ranging from first to seven quarters, requested to reduce the allotted quantities stating non-availability of the same. The Divisions, without verification of the facts by experts from DGM, reduced the quantities of minor minerals, however, the period for extraction was not reduced in this regard, which not only negated the objectives of the mining plan but was also irregular as the AMMC Rules, 2013 did not make any such provision to reduce the allotted quantities of minor minerals (**Appendix-XXVIII**).
- In four MCAs, the minor minerals were extracted in excess of the estimated quantity in the respective MPs (Details in **Appendix-XXIX**). The excess minerals were extracted due to allocation of mining contract and permits from the same MCA. The extraction of minor minerals in excess of estimated mineable quantity was in contradiction to the environmental safeguard measures.

Thus, shortfall in compliance of parameters suggested by the IBM and other issues discussed above affected the allocation of extractable minor minerals *vis-à-vis* revenue collection, scientific mining of minor minerals, restoration and reclamation, *etc.*

On this being pointed out, the M&M Department, while accepting the audit observation, stated (January 2023) that henceforth all the MPs would be approved subject to fulfilment of terms and conditions as laid down in AMMCR, 2013 and parameters as envisaged by IBM.

Recommendation: The Government may consider putting in place a mechanism to assess availability of minerals through the Mines and Minerals Department prior to NIT for optimum utilisation of mineral resources.

¹²⁷ Hon'ble High Court, Gauhati ordered against WP (C) No 3790/2016.

¹²⁸ DIG 5 MCA.

4.3.12.2 Calculation of mineable reserves in MPs

As per Manual for Appraisal of Mining Plan issued (August 2014) by IBM, MP plays a vital role in the mining process as it scientifically identifies mineral deposits or mineral resources through a mine design and evaluation process that optimally plans the mineral resources with a life of mine plan as the primary output.

Audit noticed that the details of values of parameters for calculation of mineable reserves were not recorded in the final copies of MPs. However, in response to audit, the Director, Geology & Mining (DGM) stated that there were no working sheets attached with the respective MPs to verify the correctness of calculations of mineable reserves. The discrepancies noticed in 15 MPs are explained in **Table 4.9**.

Table 4.9: Discrepancies noticed in MPs

Parameters	River Bed MPs (13 MPs)	Land Bed MPs (2 MPs)
Area Allowed (in Ha)	Pre-defined by the Forest Department without taking into consideration the surroundings viz., bridges, embankments, etc.	Pre-defined by the Forest Department
Mining Area (in Ha)	The basis of determination of mining area was not recorded except in one MP wherein the GPS coordinates (Polygonal area) were the basis of determination of mining area.	
Maximum Depth applied (in M)	In all mining plans, the maximum depth was taken as 3 m universally without taking into consideration the water level (The Hon'ble Supreme Court directed that in case of river bed mining the depth of mining may be restricted to 3m or water level, whichever is less.)	
Rate of replenishment	In seven out of 13 river bed MPs, the rate of replenishment was arbitrarily calculated without any justification and in six river bed MPs, this parameter was not considered.	
Bulk Density ¹²⁹	In one out of 13 river bed MPs, the bulk density was considered and arbitrarily calculated without any justification while in 12 river bed MPs, this parameter was not considered.	
Rate of Mining loss per year (Reasons not mentioned)	In seven out of 13 river bed MPs, the mining loss was considered as 10 per cent while in six other river bed MPs, it was 20 per cent. The basis of fixation of such percentage of mining loss was not recorded.	
Total Working Days (WDs) per year (in days)	A total of 200 days were taken as WDs per year except in one MP where 225 days was taken as WDs without any justification.	
Ratio of Minor minerals (if any)	Out of 13 MPs, the ratio of minor minerals was recorded only in one MP.	
Benches ¹³⁰	All the 13 MPs referred to benches, however, the same was not considered for calculation of mineable reserves.	
Permissible quantity of MMs per year (in cum)	As a general practice, the mineable reserves were multiplied by the maximum depth and rate of replenishment &/or rate of bulk density to get the gross estimated quantity of minor minerals, from which the mining loss was deducted to get the net mineable reserves. The net mineable reserve was then multiplied by WDs per year to get the permissible quantity of Minor Minerals (MMs) per year. However, in one case, the mineable reserve was multiplied by the period of	Calculated roughly without declaration about methods of calculation and the permissible quantity remained

¹²⁹ Bulk density is defined as the mass of the many particles of the material divided by the total volume they occupy.

¹³⁰ As per Evolving of Model Guidelines issued (16 May 2011) by GoI, system of working in minor minerals quarries shall be performed by formation of benches as per MMR Regulation 115.

Parameters	River Bed MPs (13 MPs)	Land Bed MPs (2 MPs)
	extraction to increase the mineable reserves and then multiplied by WDs per year. This inflated the net mineable reserve by 62,614 cum of sand and gravel per year.	limited to the contract quantity

It is clear from the above that the methods adopted for calculating various parameters were arbitrary and there was limited scope for verification of the correctness of estimated mineable reserves after approval of the MPs by the Geology and Mining Department.

On this being pointed out, the M&M Department stated (January 2023) that henceforth all the MPs would be approved subject to fulfilment of all the parameters as envisaged by IBM.

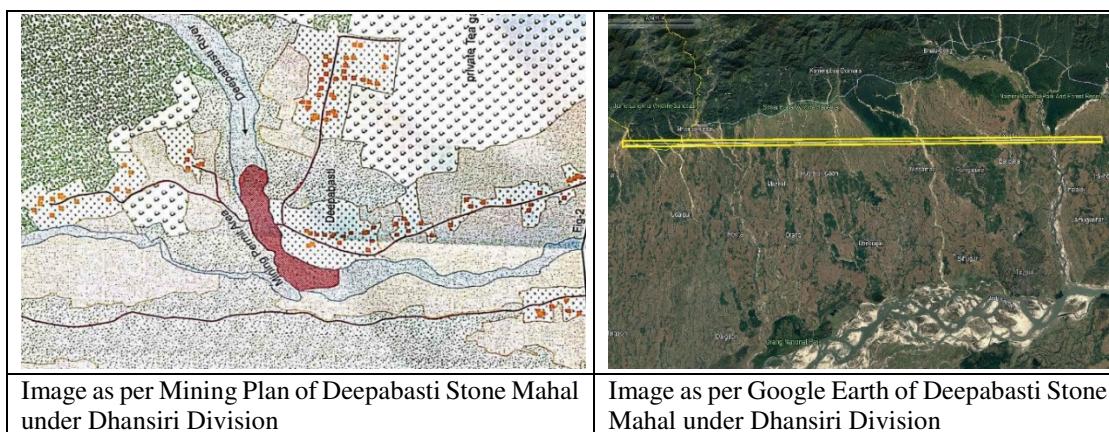
4.3.12.3 Incorrect geo co-ordinates

Rule 52 (5) of the AMMC Rules, 2013 stipulates that an MP shall incorporate the area under concession delineated on a map with boundaries duly marked along with the positions of boundary pillars with GPS reading as one of the minimum requirements.

Audit test-checked the geo-coordinates of 23 MCAs¹³¹ (involving six selected divisions) as mentioned in the respective MPs by plotting the coordinates in Google Earth and found the following discrepancies:

- As per geo-coordinates, in four MCAs, areas were smaller than the actual allotted areas ranging between 3.353 ha to 14.003 ha (**Appendix -XXX**).
- As per geo-coordinates, in 10 MCAs, areas were greater than actual allotted areas ranging between 2.5 ha to 1272.78 ha (**Appendix - XXXI**).

An illustrative diagram in one MCA is given below:



On this being pointed out, both the Departments (M&M Department and DoE&F), while accepting the audit observation, stated (January 2023) that henceforth geo-coordinates would be verified before approval of the MPs and steps will be taken to correct the geo-coordinates.

¹³¹ 12 MCAs are of river bed and 11 MCAs of land bed.

➤ Environmental Clearance

In 2016, the MoEF&CC amended the Environmental Impact Assessment (EIA) Notification, 2006 to bring small-scale mining projects under its ambit. The amendment made environmental clearance (EC) compulsory for mining of minor minerals including clusters in areas less than or equal to five hectares. Issue of EC for minor minerals was regulated by different notifications issued by GoI. The validity period of EC was modified from seven to five years in 2015 by GoI. As such, mining operations for a period of more than five years require renewal of EC after expiry of every five years or validity period as mentioned in the respective EC.

Though there is a provision of environment safeguards and restoration and rehabilitation measures for every mining area but still Environmental Clearance has not been made mandatory in the Rules *ibid*. However, the Environment & Forest Department, GoA included (July 2013) a clause in “Sale Notice” to obtain an EIA clearance from the competent authority¹³² within a period of 45 days or within the extended time by the successful bidders.

Good practice: *In Odisha and Meghalaya, requirement of environmental clearance has been introduced in their respective Minor Mineral Concession Rules, 2016.*

Recommendation:-*The Government may consider including a provision for requirement of environmental clearance from the State Environment Impact Assessment Authority in AMMC Rules.*

4.3.12.4 Delay in issuance of EC

Audit test-checked 150 ECs¹³³ pertaining to 11 divisions and noticed that in 86 MCAs, there was delay in issuance of ECs by the State Environment Impact Assessment Authority (SEIAA) ranging from 49 days to 2,512 days which resulted in delay in settlement of 74 MCAs ranging from 69 to 2,542 days (**Appendix-XXXII**). Further, 12 MCAs were settled prior to issuance of ECs which is not regular (**Appendix-XXXIII**). Audit also noticed that in Nagaon Division, permissions were issued for extraction of minor minerals from four MCAs without EC certificates.

On being pointed out, DoE&F, Assam while accepting the audit observation, stated (January 2023) that presently, regular monitoring and pursuance with SEIAA for issue of EC is being carried out.

4.3.12.5 Non-renewal of EC/EIA Clearance

Audit noticed that 12 MCAs of four divisions were settled for seven years during the period 2013-16. The respective ECs were issued for five years each. On expiry of validity period of the ECs, MC holders of five MCAs had applied for extension of validity period of EC while the other seven MC holders had not applied for extension (**Appendix-XXXIV**). The extraction of minor minerals from eight MCAs had been

¹³² State Environment Impact Assessment Authority (SEIAA) or District Environment Impact Assessment Authority (DEIAA).

¹³³ Out of 257 MCAs.

completed while the extraction of minor minerals from four MCAs is still in progress (till March 2022). The respective Divisions neither pursued the matter with the SEIAA for renewal nor took any action to stop extraction of minor minerals without valid ECs, which negated the very objectives of issuance of EC.

On this being pointed out, DoE&F stated (January 2023) that presently EC/EIA is being obtained by the concerned DFOs directly from the SEIAA to safeguard environmental aspects.

4.3.12.6 Non-compliance of conditions stipulated in EC

The AMMC Rules, 2013 authorised the competent authority to suspend or terminate the mining operations in case of violation of norms for environmental safeguards or terms and conditions for grant of the mineral concession agreement¹³⁴. Further, based on compliance of specific and general conditions of environmental safeguards, an EC for minor minerals can be issued. However, audit noticed the following:

- As per conditions laid down in EC¹³⁵, blasting should be done only in the presence of the license holder and forest officials. Audit noticed that in Nagaon Division¹³⁶, the competent authority issued (January 2018) blasting permission with various conditions which included that the permit holder would be responsible for any eventuality and blasting was required to be done by a license holder. Blasting permission was issued (28 May 2019) by the DFO, Nagaon on a request made by the MC holder (27 May 2018) with a direction to the concerned Range Officer to be present during the blasting process (28 May 2019). Audit further noticed that the MC holder, against a notice issued by the Division, informed that the blasting was done in his absence due to ignorance of his team. Further, as per the enquiry report of ACF, Nagaon (08 June 2019) one hectare area beyond the permissible area had been blasted when neither the MC holder nor the Range Officer concerned was present. Thus, the Division did not take the requisite precautions for the blasting operations which led to violation of conditions laid in the EC and in the concerned blasting permission. However, no action was taken against the concerned officials and the MC holder for non-compliance of norms and the order except for issuing a warning to the MC holder. Thus, the Department failed to take appropriate action for violation of the stipulated conditions. There was also a lack of monitoring mechanism to safeguard against loss of life and property and damage to the environment.
- In Digboi Division, an MCA was awarded¹³⁷ (July 2018) for two years to extract sand (4,000 cum per year) and ordinary clay (3,000 cum per year) against which an EC certificate was issued (September 2020) for extraction of sand (4,000 cum) and ordinary clay (3,000 cum) for a period of two years¹³⁸. The difference among the

¹³⁴ Rule 41(1) of the AMMC Rule 2013.

¹³⁵ Sl. No. 28 and 48 of EC.

¹³⁶ Dholpahar Stone Permit Area No-1 allotted to the selected bidder for five years for extraction of 50,000 CuM of Stone at offered value of ₹ 2.81 crore.

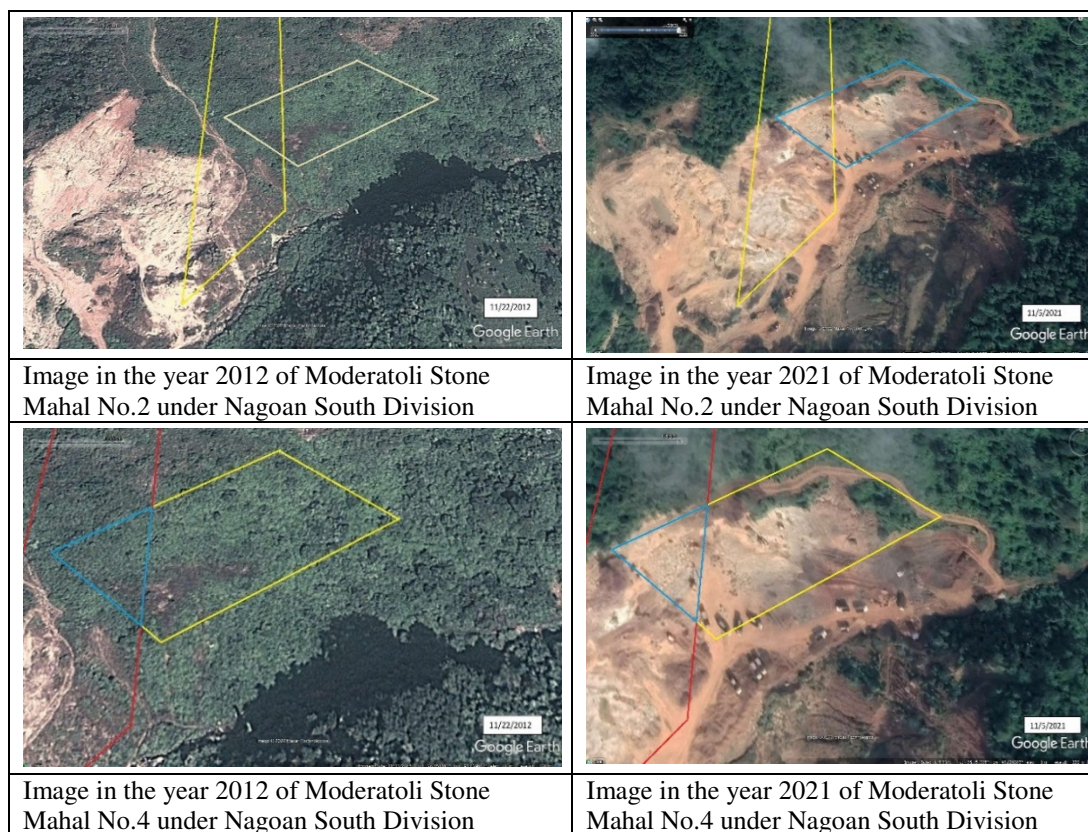
¹³⁷ DIG-15C of Digboi.

¹³⁸ September 2020 to September 2022.

award and the EC was noticed by the DFO, Digboi after lapse of one year and he requested (August 2021) the SEIAA to provide further EC in this regard. Audit noticed that in the meantime, the permit holder extracted the entire quantity within one year¹³⁹. This resulted in violation of the conditions of the EC and guidelines for scientific mining.

- In Dhubri Division¹⁴⁰, it was noticed that against an MCA, an EC was accorded (August 2017) for extraction of 50,000 cum of stone during the five year period 2018-23. In the meantime, the DFO issued government permits for extraction of 65,206 cum of stone from the MCA without obtaining EC for the additional quantity. As a result, a total of 87,706 cum¹⁴¹ stone was extracted from the MCA within two years (08 June 2018 to 07 August 2020). Thus, extraction of 65,206 cum of stone without EC was not only unscientific mining but also posed a threat to the environment.

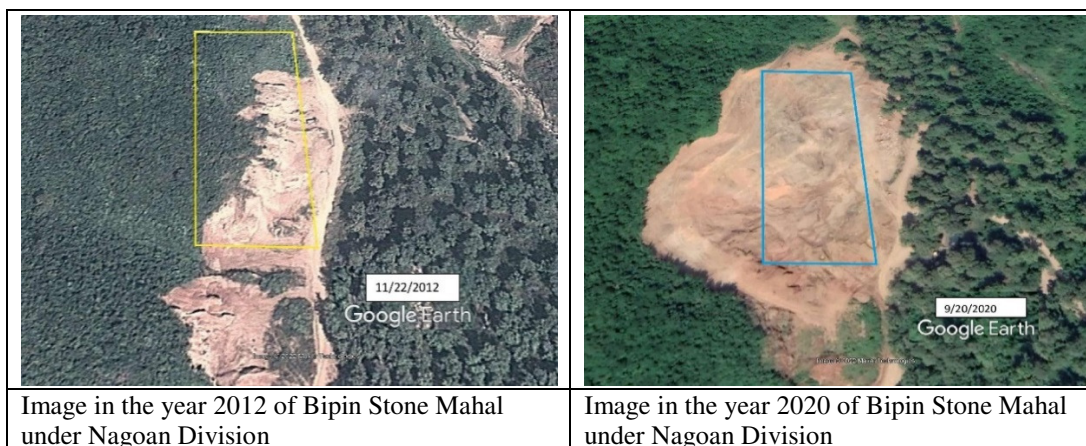
The following photographs taken from Google Earth Application depict the effects of unscientific mining leading to reduction in forest cover and degradation of environment in and around MCAs over the years.



¹³⁹ During the period from 01-03-2021 to 03-12-2021 (*i.e.*, one year).

¹⁴⁰ Tokrabandha Hill Stone Quarry No. 02.

¹⁴¹ 22,500 CuM of stone by MC holder and 65,206 CuM stone by permits to Government agencies.



On this being pointed out, the M&M Department stated (January 2023) that in case of violation of terms and conditions of the mineral concession agreement and norms of mining operation, the PCCF & HoFF, Assam may take appropriate action as per provisions of Rules 55, 56, 57, 63 and 64 of the AMMC Rules, 2013. The reply points towards lack of coordination between the line departments.

Recommendation:- The Government may issue necessary instructions to ensure that no MCA is operated without valid EC to safeguard environmental aspects. Responsibility needs to be fixed against the erring officials for allowing extraction of minerals without requisite clearances.

4.3.13 Collection of Revenue and other dues

4.3.13.1 Security Deposit

The AMMC Rules, 2013 stipulate that the successful bidder is required to deposit security money equal to 25 per cent of the annual bid value prior to execution of agreement. Further, the Rules also provide for enhancement of the annual bid value by 25 per cent on expiry of each block of three years along with deposit of balance amount of security to upscale the security amount. The shortcomings noticed during the course of audit are discussed in the succeeding paragraphs:

- **Short realisation of Security Deposit**

Audit noticed that in three divisions (out of 11 selected divisions) in 32 cases, the security deposits were collected at rates ranging between zero per cent to six per cent instead of 25 per cent as stipulated in the Rules, which resulted in short realisation of ₹ 32.28 lakh (**Appendix-XXXV**). However, in the other eight divisions security deposits were collected at the prescribed rate. Audit further noticed that out of these 32 cases, security deposits in two cases¹⁴² of Nagaon South Division were forfeited due to default in payment of contract money. Thus, due to less realisation of security money, the Government failed to forfeit revenue of ₹ 6.16 lakh.

¹⁴² Two MCAs of Nagaon South Division namely (i) Doboka Ordinary Sand Mining Unit-3 and (ii) Doboka Ordinary Sand Mining Unit-4.

- **Non-enhancement of Security Deposit**

Audit noticed that in four out of 11 selected divisions security deposits in 19 cases were not enhanced as per Rules *ibid*, which resulted in short realisation of security money of ₹ 35.99 lakh (detailed in **Appendix-XXXVI**). Audit further noticed that out of 19 cases, security deposit in three cases¹⁴³ were forfeited due to default in payment of instalments. Thus, due to failure to enhance the security deposit, the Government failed to forfeit deposits of ₹ 8.24 lakh.

- **Security Deposit not deposited in Government Account**

The AMMC Rules, 2013 do not specify the manner of collection of security deposits as well as deposit of security deposit in the Public Account. Audit noticed that in the selected 11 divisions, 105 MC holders deposited security deposit of ₹ 4.29 crore in the form of demand drafts. Audit scrutiny revealed that neither were these demand drafts deposited into Government Account nor were re-validated after expiry of the validity period. The details are shown in **Table 4.10**.

Table 4.10: Statement showing amount of collected as Security Deposit

Sl. No.	Name of Division	Number of MCAs in operation	Amount of Security Deposit collected (in ₹)
1	Baksa	16	14,88,969
2	Dhansiri	27	50,86,430
3	Dhemaji	4	49,53,757
4	Dhubri	8	37,24,769
5	Dibrugarh	9	33,30,029
6	Digboi	10	28,90,189
7	Golaghat	4	23,19,643
8	Hamren	3	4,44,438
9	Karimganj	9	48,06,268
10	Nagaon	9	84,41,115
11	Nagaon South	6	54,06,000
Total		105	4,28,91,606

Audit noticed that Department of Finance, GoA issued instructions (November 2018) to all Works divisions in Assam to deposit the security deposits collected in the Public Account as Civil Deposits. However, similar directive was not issued to DoE&F, GoA for deposit of security deposits under Public Account.

Thus, the Department did not initiate any action to safeguard the Government interest.

On being pointed out, DoE&F, Assam stated (January 2023) that it will not be proper to deposit the SD in Public Account since it is refundable after completion of tenure. The reply of the Department is not acceptable as receipts under Public Account are a liability to the Government and all the deposits are to be deposited into Public Account.

Further, the Department stated that on implementation of online system of collection of government dues, security deposits, *kists* and other dues as per AMMC Rule, 2013 would be monitored in a better way.

¹⁴³ Baksa, Dhemaji and Nagaon South Divisions.

Recommendation: *The Government may issue instructions to ensure that security deposits are deposited in Government Account and accounted for in the Public Account.*

4.3.13.2 Revenue Collection from minor minerals

The AMMC Rules, 2013 provide that in case of mining lease/contract, the agreement deed shall be executed and registered¹⁴⁴ within a period of ninety days (or 120 days¹⁴⁵ if the competent authority is satisfied) from the date of issue of Letter of Intent (LoI). In the event of failure to execute the deed of agreement, the “advance dead rent” and “security money” deposited shall stand forfeited. The Rules further provide that the lessee/contractor shall deposit annual dead rent/annual contract money, in four equal instalments in advance. However, in case of permit, the agency/contractor shall be liable to pay royalty in advance.

Rule 38 (6) of AMMC Rules, 2013 also stipulates provisions for levy of interest for delay in payment of instalments beyond seven days from the due dates mentioned in the agreement. In the event of non-payment of instalments within 60 days, there is a provision for termination of the lease/contract agreement. Audit scrutiny showed the following:

- In eight out of 11 selected divisions, nine MC holders did not pay instalments of annual contract money in time. The divisions terminated the mining contracts in respect of these nine MCAs for non-payment of instalments exceeding 60 days from the due date of payment. However, there was delay in termination ranging between 60 days to 195 days. Audit noticed that no mining operation stop order was issued. Further, Audit noticed that against instalment amount of ₹1.48 crore for the defaulted period, the Department could realise ₹ 44.33 lakh through forfeiture of security deposit and the balance amount of ₹1.04 crore remained unrealised (January 2023) (**Appendix-XXXVII**).
- Further, Audit noticed that eight MC holders of Dhansiri Division failed to pay the full amount of quarterly instalments, which ranged between one to eight instalments involving an amount of ₹ 56.23 lakh till March 2022 (**Appendix-XXXVIII**). However, the Department neither took any action to terminate the contracts nor realised the amount from the MC holders as per the provisions of the Rules *ibid*.

On being pointed out, DoE&F, Assam stated (January 2023) that due to implementation of online process there is no scope for delay in deposit of royalty. The Department was however, silent on the action taken against the defaulters.

4.3.13.3 Renewal of MCA

As per Rule 20 (3) of the AMMC Rules, 2013, while according approval to the renewal of a contract, the annual contract amount shall be increased by an amount of 25 per cent

¹⁴⁴ Rule 17 and 22.

¹⁴⁵ Provided that where the competent authority is satisfied that the LoI holder/contractor is not responsible for the delay in execution of the agreement, the competent authority may, for the reasons to be recorded in writing permit the execution of the contract agreement deed beyond a period of 90 days but not exceeding 120 days of the expiry of the aforesaid period.

over the amount of contract money payable in the last year of the original contract grant. Further, the annual contract amount shall be increased by 25 per cent on the expiry of each block of three years.

Audit noticed that while renewing the mining contract of Tokrabandha Hill Stone Quarry No.6 under Dhubri division, the contract money was not enhanced at all as per the Rules *ibid*. Further, the Division enhanced the contract value at the rate of 15 per cent of the last annual contract value for a block of two years instead of 25 per cent of the last annual contract value for a block of three years as provided in the AMMC Rules, 2013. This resulted in short realisation of contract money of ₹ 17.37 lakh in the instant case as detailed in **Table 4.11**.

Table 4.11: Short realisation of contract money

Extraction period	Year	Quantity of Stone extracted (in cum)	Revenue Realised (in ₹) per cum	Total Revenue Realised (in ₹)	Revenue realisable (in ₹) per cum	Total Revenue realisable (in ₹)	Short realisation of government revenue (in ₹)
(1)	(2)	(3)	(4)	(5) = (3)*(4)	(6)	(7) = (3)*(6)	(8) = (7) – (5)
Previous	2016	6,000	323	19,38,000	323	19,38,000	0
Renewed	2017	5,000	323	16,15,000	404	20,20,000	4,05,000
	2018	6,000	371	22,26,000	404	24,24,000	1,98,000
	2019	6,000	371	22,26,000	404	24,24,000	1,98,000
	2020	6,000	427	25,62,000	505	30,30,000	4,68,000
	2021	6,000	427	25,62,000	505	30,30,000	4,68,000
Total							17,37,000

In reply, Dhubri division stated that the enhancement of contract value at the rate of 15 per cent for each block of two years was greater than the enhancement contract value at the rate of 25 per cent for each block of three years. However, the justification provided by the Division is factually incorrect as the decision of the Division led to a loss of Government revenue as detailed in the above table.

On being pointed out, DoE&F, Assam stated (January 2023) that due to implementation of online process there is no scope for delay in deposit of royalty. The Department was however, silent on the action taken against the defaulters.

4.3.13.4 Registration of Agreement

AMMC Rules, 2013 provide that a mineral concession granted under the Rules shall commence from the date of execution of the agreement and all lease deeds or contract agreements effective for a period of 11 months or more shall be duly registered with the Registrar. All expenditure on registration of the lease deed or contract agreement shall be borne by the concession holder. However, audit observed that in the 11 selected divisions, only 45 out of 105 contract agreements under three divisions¹⁴⁶ were registered. Therefore, 60 mining contract agreements in the other eight divisions¹⁴⁷ were not registered, which not only made those contracts legally unenforceable in the

¹⁴⁶ Baksa, Dhansiri and Nagaon.

¹⁴⁷ Dhemaji, Dhubri, Dibrugarh, Digboi, Golaghat, Hamren, Karimganj and Nagaon South Divisions.

event of any default but also led to loss of Government revenue in the form of stamp duty and registration fee.

The PCCF & HoFF stated that considering the minor minerals as goods, stamp duty cannot be levied. However, the Judicial Department, GoA viewed (April 2022) that being the nature of a lease, the mining lease/contract agreement would come under the scope of 'Entry 35' of Schedule 1 of the Indian Stamp Act, 1899.

On being pointed out, DoE&F, Assam stated (January 2023) that necessary instructions had been issued to respective DFOs for registration of all agreements.

Recommendation: *The Government may ensure that all MCAs are registered in keeping with the extant provisions of Stamp Act, and take strict action against operation of MCAs without registration of contract agreement.*

The above indicates shortcomings in implementation of AMMC Rules.

4.3.13.5 Short realisation of royalty from *Patta* land

As per Rule 5(5) of the AMMC Rules, 2013¹⁴⁸, a private landowner having clear title on the record of rights (*Jama bandi*) over a periodic *patta* land¹⁴⁹ is allowed to carry out mining operation in his periodic *patta* land up to a depth of 1.5 meters and sell minor minerals mentioned in Schedule Y¹⁵⁰ only, by paying 1.5 times of royalty of minerals as per the Rules laid down. Government of Assam had notified¹⁵¹ the rate of royalty¹⁵² on minor minerals in June 2015.

Out of available records of five divisions¹⁵³, in two divisions¹⁵⁴, audit noticed that the royalty for extraction of minor minerals from *patta* land was realised at the pre-revised rate. This resulted in short realisation of royalty of ₹ 9.54 lakh as detailed in **Table 4.12**:

Table 4.12: Short realisation of royalty for extraction of minor minerals from *patta* land

Name of Division	Type of Minor Minerals	Period	Quantity (in CuM)	Notified rate of royalty (in ₹)	Royalty to be realised (in ₹)	Royalty realised (in ₹)/@ per cum	Short realisation of Royalty (in ₹)
Baksa	Earth	July 2019 to August 2021	12,870	45	5,79,150	3,95,100	1,84,050
	Stone		5,950	300	17,85,000	11,90,000	5,95,000
Dhansiri	Sand		2,500	210	5,25,000	3,50,000	1,75,000
Total							9,54,050

In reply, the DFOs stated that demand notice would be issued to the concerned persons at the earliest to realise the same.

¹⁴⁸ Amended vide Government of Assam's notification No. PEM.47/2018/16 dated 26 October 2018

¹⁴⁹ Status of any land settled for longer tenure with right to transfer which is not in case of Annual or Short Lease *Patta*.

¹⁵⁰ Schedule Y contains name of Minor Minerals viz., Sand, Gravel, Stone, Boulder, Brick Earth, etc.

¹⁵¹ Notification No. PEM.83/2009/Pt-VII – A/39 dated 17 June 2015.

¹⁵² Rate of Royalty of Earth is ₹ 30 per cum, Sand is ₹ 140 per cum and Gravel/ Stone/Boulder is ₹ 200 per cum.

¹⁵³ Baksa, Dhansiri, Nagaon, Golaghat and Karimganj divisions.

¹⁵⁴ Dhanisri and Baksa Division.

Similar observations in respect of DFO, Nagaon had featured in Report of the CAG (Revenue Sector) for the year ended March 2019.

On being pointed out, DoE&F, Assam stated (January 2023) that DFOs being the competent authority would take necessary action for realisation of outstanding revenue.

4.3.14 Rehabilitation and Restoration Funds

➤ *Mines and Mineral Development, Restoration and Rehabilitation*

The AMMC Rules, 2013 provide for realisation of Mines and Mineral Development, Restoration and Rehabilitation (MMDRR) Fund at the rate of 10 *per cent* (as other charges). The GoI amended (March 2015) the MMDR (Amendment) Act, 2015 and empowered the State Governments to establish District Mineral Foundation (DMF) in each district affected by mining related operations under Section 9B of MMDR Act, 1957. Section 15A of the Act empowers the State to prescribe the payment and collect funds for DMF in case of minor minerals. However, no rate of contribution was specified in the Act. Further, the DMF fund was to be utilised through Pradhan Mantri Khanij Khsetra Kalyan Yojna (PMKKKY), which was launched (September 2015) by GoI. Accordingly, the GoA approved for constitution of District Mineral Foundation Trust (DMFT) in all the districts including Sixth Schedule areas of the State. The GoA also notified (December 2017) the rate (10 *per cent*) of contribution to the DMFT by the holder of concession related to minor minerals.

Thus, presently in Assam, two funds are simultaneously applicable for restoration and rehabilitation of areas affected by extraction of minor minerals namely, MMDRR Fund and DMFT fund. The difference between both the funds are detailed in **Table 4.13**.

Table 4.13: Difference between DMFT and MMDRR Fund

DMFT	MMDRR Fund
(i) The objective is to work for the interest and benefit of persons and areas affected by mining related operations.	(i) The objective is only rehabilitation of flora and fauna including other vegetation such as trees, shrubs, <i>etc.</i> destroyed by quarrying or mining operation.
(ii) Introduced vide Section 9B and 15(4) of the MMDR Act, 1957 by GoI ¹⁵⁵ .	(ii) Introduced vide Rules 58 to 62 of the AMMC Rules, 2013 by GoA
(iii) It is a Trust maintained at District level and fund realised is kept in Savings account.	(iii) It is a State level fund to be kept under 'Public Account' of the State.
(iv) The fund has to be managed by the District authorities (non-profit body) constituted by GoA under Section 9 B(1) of the MMDR (Amended) Act, 1957.	(iv) The fund has to be managed/utilised by the State level Committee constituted by GoA under AMMC Rules, 2013.
(v) The amount/contribution deposited by the mineral concession holder is non-refundable.	(v) The expenditure made towards restoration and rehabilitation works as part of progressive mine closure plan by the mineral concession holder shall be reimbursed out of this Fund to the extent of actual expenditure subject to such re-imburement being limited to the amount contributed by him. Any expenditure incurred over and above this limit shall have to be borne by the mineral concession holder from his own account.

¹⁵⁵ Notification No. PEM. 40/2015/100 dated 26.8.2016 and PEM.40/2015/101 dated 26.8.2016.

4.3.14.1 Non-creation of Head of Account under Public Account for MMDRR fund

As per Rule 58 of the AMMC Rules, 2013 the 'MMDRR' shall be established under 'Public Account' in the State of Assam under the administrative control of the Department to which rehabilitation charge is payable under clause (i) of sub section (1 A) of Section 15 of the Act.

Further, an amount equal to 10 *per cent* of the dead rent or royalty or contract money is to be collected from the MC holders and deposited in the Public Account as mentioned in Rule 59(1) of the AMMC Rules, 2013.

Audit noticed that action for creation of appropriate Head of Account under 'Public Account' of the State was neither initiated by the concerned departments *i.e.*, the Director of Mines & Minerals/DoE&F, GoA nor by the Finance Department, GoA till March 2022. In absence of a specific head of account, the MMDRR fund contribution was being collected through 'Demand Draft' and was being deposited in the savings bank accounts of the respective DFOs. Therefore, in spite of specific provision for creation of a separate head under Public Account in the AMMC Rules, the same was not done even after a lapse of eight years from the implementation of the Rules.

Further, audit noticed that Mines and Mineral Department, GoA had directed (November 2017) the PCCF & HoFF, GoA to transfer the fund already collected under MMDRR to the concerned DMFT. In compliance to the direction issued (October 2017) by the Mines and Mineral Department, 22 Divisions (out of 33 divisions in Assam) had transferred ₹ 16.37 crore (out of total collection of ₹ 22.35 crore till 2019-20¹⁵⁶) from MMDRR fund to DMFT fund. However, it is evident as per the current enactments that the objective of both the funds are different and funds are collected under the two separate provisions. Thus, merger of both funds without amendment of the AMMC Rules, 2013 is irregular.

On being pointed out, the M&M Department, Assam replied (January 2023) that the concerned authorities would take necessary action for creation of a head of account under Public Account for deposit of MMDRR contribution in respect of minor mineral included under 'X' Schedule and 'Y' Schedule. Further, DoE&F, Assam stated that bank account for depositing MMDRR fund had already been notified in December 2011. The reply of DoE&F, Assam is not acceptable as the AMMC Rules, 2013 did not provide any scope for operation of bank account for the Fund.

4.3.14.2 Collection of MMDRR fund

Audit noticed from the information furnished by the Department relating to the total collection of MMDRR funds and balance thereof with the Department, that during the period from 2013-14 to 2019-20, an amount of ₹ 26.42 crore was collected towards MMDRR from 25 divisions against realisable amount of ₹ 41.80 crore towards MMDRR fund (*i.e.*, 10 *per cent* of total revenue collection of ₹ 417.97 crore). Thus, there was an overall short-collection of ₹ 15.38 crore towards MMDRR fund. Further,

¹⁵⁶ PCCF & HoFF, Assam did not provide information for the year 2020-21 though called for.

audit analysed the MMDRR funds collected by eight selected divisions and noticed that there was also short collection of ₹ 2.35 crore towards MMDRR fund as detailed in **Appendix-XXXIX**.

Audit also noticed that in seven divisions¹⁵⁷, there was short realisation of MMDRR fund amounting to ₹ 3.04 crore due to non-collection of MMDRR fund from different permit holders (**Appendix-XL**).

Thus, due to non-compliance of AMMC Rules, 2013 by the divisions, an amount of ₹ 3.04 crore of MMDRR fund was short realised.

Similar observations in respect of DFOs, Dhemaji, Nagaon and Dhubri had featured in Report of the CAG (Revenue Sector) for the year ended March 2018.

On being pointed out, DoE&F, Assam stated (January 2023) that Government Departments had not deposited the MMDRR fund collected by them. Further, AMMC Rules, 2013 has been amended (October 2021) to collect MMDRR fund and DMFT fund along with royalty on minor minerals.

4.3.14.3 Constitution of committee for utilisation of MMDRR Fund

As per Rule 62 (1), GoA is required to constitute a Committee headed by Secretary of Department of Mines and Minerals and comprising representatives from Departments of Mines and Minerals, Finance, E&F, Health, Education, Panchayat and Rural Development and Social welfare.

Audit noticed that though the PCCF & HoFF requested (November 2016) the Secretary, DoE&F, GoA and followed it up in March 2021 for constitution of a committee for utilisation of MMDRR fund, no such Committee has been constituted till March 2022. Thus, due to non-constitution of the Committee, the fund could not be utilised except under Sixth Schedule areas. This indicates that the AMMC Rules were not fully implemented even after lapse of eight years of its implementation and the restoration and rehabilitation works was not carried out as per progressive mine closure plan. In absence of the recognised Committee, the Divisions irregularly utilised the fund for other purposes as discussed below:

- Audit noticed that in Dhansiri and Baksa Divisions, the DFOs had withdrawn ₹ 1.02 crore¹⁵⁸ from the respective savings bank account for creation of plantation at river bank, repairing of vehicle, *etc.* However, the DFOs could not produce vouchers in support of such expenditure.

¹⁵⁷ Digboi, Golaghat, Dhansiri, Baksa, Karimganj, Hamren and Nagaon South Divisions.

¹⁵⁸ Dhansiri Division = ₹ 66.50 lakh and Baksa = ₹ 35.00 lakh.

- In another case, the DFO, Dibrugarh Division refunded the MMDRR fund of ₹ 10.06 lakh¹⁵⁹ to three contractors after completion of mining permit period in contravention of the provision guiding collection of MMDRR as per the AMMC Rules, 2013.
- In Dibrugarh Division, the DFO irregularly adjusted ₹ 12.57 lakh¹⁶⁰ from MMDRR fund against the defaulted contract money of the three permit holders.

Thus, the DFOs of Dhansiri, Baksa and Dibrugarh Divisions had irregularly withdrawn and spent ₹ 1.24 crore of MMDRR fund.

On being pointed out, DoE&F, Assam stated (January 2023) that proposal for formation of the committee for utilisation of MMDRR fund had already submitted to the Cabinet.

Recommendation: *The Government may consider immediate creation of a head of account under Public Account and formation of a committee for utilisation of MMDRR fund as per AMMC Rules, 2013.*

➤ **District Mineral Foundation Trust**

Section 15 A of the MMDR Act, 1957 (amended in 2015) provides that the State Government may prescribe the payment of specified amounts by all holders of concessions related to minor minerals to the DMF of the district in which the mining operations are carried on. Accordingly, GoA had constituted district level trust in all districts of Assam (including Sixth Schedule area) and fixed 10 *per cent* of the contract amount to be collected from the MC holders and deposited in the respective DMFT.

Further, the Central Government directed¹⁶¹ (16 September, 2015) to utilise DMF in accordance with the guidelines of PMKKKY. GoA introduced (October 2020) Assam District Mineral Foundation (Trust) Rules, 2020 for regulating the composition and functions of DMFT.

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Sl. No.	Name of MPA	Name of MPA holder	Period of settlement	Settled value	MMDRR realised	MMDRR released to MP holder
1	DBR/Jeypore/6	Sri Polash Phukon	2013-15	18,61,000	1,86,100	1,86,100
2	DBR/Jeypore/1	M/S ASCON	2013-15	42,00,000	4,20,000	4,20,000
3	DBR/Jeypore/4	Sri Prakash Baruah	2013-15	39,99,490	3,99,949	3,99,949
Total (in ₹)						10,06,049

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Sl. No.	Name of MPA	Name of MPA holder	Period of settlement	MMDRR forfeited with adjustment of defaulted amount
1	MPA No. DBR/12	Shri Joyanta Gogoi	2014-16	5,00,000
2	MPA No. DBR/15	Shri Debajit Borgohain		4,00,000
3	MPA No. DBR/19	Smt. Deepshikha Dutta		3,56,712
Total (in ₹)				12,56,712

¹⁶¹ Under Section 20 A of the MMDR Act *i.e.*, power of the Central Government to issue directions.

4.3.14.4 Regulation of DMFT fund

Audit noticed the following discrepancies:

- Though GoA notified contribution towards the DMFT in case of minor minerals in December 2017, the AMMC Rules are yet to be amended specifying the contribution from minor minerals towards DMFT
- Out of 11 districts, DCs¹⁶² of seven districts furnished information relating to amount of fund collected towards DMFT and expenditure incurred from the same. Information furnished by the DCs in respect of accounting of DMFT fund was compared with the information furnished by the concerned DFOs¹⁶³ relating to collection towards DMFT fund and it was noticed that there was a mismatch between fund collected and fund accounted for as shown in **Table 4.14**:

Table 4.14:-Details of fund collected and fund accounted in 11 selected districts

(₹ in lakh)

Sl. No.	Name of District	DMFT collected and transferred (to DMFT account) by DFOs	MMDRR fund transferred to DMFT Account	Expenditure incurred from DMFT by DCs	Availability of DMFT funds with DCs		Discrepancy between what DMFT fund should be and what is actually available
					should be	Actual	
1	Baksa	22.10	0.00	0.00	22.10	34.55	(-) 12.45
2	Dibrugarh	8.57	106.08	0.00	114.65	111.39	3.26
3	Golaghat	5.53	36.80	0.00	42.33	28.81	13.52
4	Karimganj	157.75 ¹⁶⁴	0.00	0.00	157.75	35.63	122.12
5	Tinsukia	2.76	67.15	0.00	69.91	81.53	(-) 11.62
6	Nagaon South	58.76	100.16	NA	158.92	NA	
7	Dhansiri	0.00	0.00	0	0	0	
8	Hamren	53.27	0.00	NA	53.27	NA	

NA: Not Available

From the above table, it may be seen that in three Districts¹⁶⁵, there was short availability of funds to the tune of ₹ 1.39 crore as compared to the funds collected and transferred to the DC concerned. The authorities concerned need to reconcile the balances and take appropriate action against the erring officials in case of excess/shortfall in the balances.

On this being pointed out, DoE&F, Assam stated (January 2023) that DMF funds are handled by the concerned Deputy Commissioners. The Department was however, silent about the reason for short accounting of DMF fund.

4.3.14.5 Delay in implementation of DMFT

GoA had issued instructions (December 2017) to realise 10 per cent of the contract amount from the MC holders and transfer the same to respective DMFT.

¹⁶² Four DCs of Nagaon, Hojai (Nagaon South division), Karbi Anglong West (Hamren division) and Dhemaji did not furnish information relating to DMFT fund.

¹⁶³ Three DFOs of Dhubri, Nagaon and Dhemaji did not furnish information relating to DMFT fund.

¹⁶⁴ Includes two districts namely Cachar and Karimganj.

¹⁶⁵ Dibrugarh, Golaghat and Karimganj Districts.

- Audit observed that in selected 11 divisions¹⁶⁶, ten divisions had realised DMFT fund from April 2018 from the MC holder except in Dhansiri division.
- Audit also noticed that in one division¹⁶⁷, there was short realisation of DMFT fund amounting to ₹ 21.84 lakh (**Appendix–XLI**)

On this being pointed out, DoE&F, Assam stated (January 2023) that the matter relates to concerned Deputy Commissioners.

4.3.14.6 Utilisation of DMFT Fund

The PMKKKY was implemented by the DMFs of the respective districts using the funds collected from major and minor minerals under DMFT.

Audit sought information from the DCs of 11 selected districts regarding expenditure incurred from DMFT fund. Audit received information from seven DCs and noticed that DC, Dhubri had incurred an expenditure of ₹ 39.39 lakh, however, the other six DCs had not utilised the DMFT fund. The details of expenditure were not provided by DC, Dhubri though called for.

On this being pointed out, DoE&F, Assam stated (January 2023) that the matter relates to concerned Deputy Commissioners.

Recommendation: *The Government may set up a mechanism for accounting of DMFT fund under both major and minor minerals separately with periodical reconciliation of the same.*

4.3.15 Extraction and Transportation of minor minerals

Rule 54 of the AMMC Rules, 2013 provides that the extraction of minor minerals should take place only in accordance with the terms and conditions of the environmental clearance, methods of extraction as specified in the agreement, mining plan and EC certificate.

➤ Transportation of minor minerals

Transportation is a vital step in the value chain of mining of minor minerals, which needs to be regulated to ensure transparency and better control over illegal operations.

The AMMC Rules, 2013 provide for “mineral transit pass” which are issued by the competent authority to the lease/contractor/permit holder for lawful despatch and transportation of any minerals raised from the concession area. Transportation of minor

¹⁶⁶

Sl. No.	Name of Division	Year for which DMFT collected	Sl. No.	Name of Division	Year for which DMFT collected
1	Dhansiri	Nil	7	Karimganj	2018-19
2	Baksa	2020-21	8	Dibrugarh	2019-20
3	Nagaon South	2018-19	9	Dhubri	2019-20
4	Golaghat	2020-21	10	Nagaon	2020-21
5	Digboi	2020-21	11	Dhemaji	2018-19
6	Hamren	2019-20			

¹⁶⁷ Dhemaji Division.

minerals without a valid mineral transit pass would be treated as violation of the provision of the Rules. The PCCF & HoFF instructed (May 2020) to ensure issuance of transit passes for minor minerals only in respect of transport vehicles fitted with location tracking device to be effective from 1st June 2020. The installation of location tracking device is imperative for online monitoring of such vehicles used in transportation of minor minerals to prevent pilferage and loss of Government revenue.

Audit noticed the following irregularities relating to transportation of minor minerals:

4.3.15.1 Transportation of minor minerals through invalid vehicles

Audit examined 630 numbers of transit passes issued in respect of 12 MCAs of six divisions¹⁶⁸ during May 2016 to November 2020 for transportation of 2,977 cum of minor minerals. These transit passes involved use of 263 vehicles. Audit cross-verified the details of these 263 vehicles with VAHAN database of Transport Department and observed that 208 vehicles were goods carriers which are able to transport minor minerals. In case of the remaining 55 vehicles, details of seven vehicles were available in the VAHAN database and were not found suitable for transportation of minor minerals. Further, details of 48 vehicles were not even available in the VAHAN database. The details of these 55 vehicles are shown in **Table 4.15**.

Table 4.15: Vehicles utilised for transportation of minor minerals

Particulars	Number of vehicles
Ambulance (LPV)	1
Excavator (Commercial)(HGV)	1
Motor Car (LMV)	2
Three Wheelers (Passenger)	3
Vehicle details not found in VAHAN	48
Grand Total	55

Thus, issue of transport passes using registration numbers of ambulance, three wheelers, *etc.* raises doubts on the effectiveness of the controls over proper movement of mineral bearing vehicles, raising the possibility of illegal mining.

On this being pointed out, DoE&F, Assam stated (January 2023) that presently vehicles for transportation of minor minerals are being registered through an online process, hence scope of using invalid vehicles is remote.

4.3.15.2 Utilisation of transit challans

The transit challan contains vital information like name of MCA, vehicle numbers, quantity, *etc.*

In Assam, as per practice, books of transit challans were issued by the Division to the MC/permit holders, who submitted counterfoils of challans utilised for transportation of minerals to the Division for verification. In this regard, audit noticed the following:

- In six¹⁶⁹ out of 11 divisions, transit passes were issued for different quantities of minerals extracted ranging between 1 cum to 15 cum without verifying the

¹⁶⁸ Baksa, Dhemaji, Golaghat, Karimganj, Dhubri and Nagaon Division.

¹⁶⁹ Baksa, Dhemaji, Golaghat, Karimganj, Nagaon and Dhubri Division.

carrying capacity of the vehicles. For instance, the capacity of a dumper was 10 cum against which transit passes were issued for two/five cum leaving scope for illegal transportation of minor minerals in excess of the permitted quantity. In Karimganj Division, it was noticed that in three cases, the quantity of minor minerals being transported was lower than the capacity of the vehicles as mentioned in the e-Transit Passes.

- Further, in two divisions¹⁷⁰, audit noticed that 16,625 transit challans were issued to transport 60,750 cum of sand to three MC holders. However, 83,125 cum of sand was transported by the MC holders which led to excess extraction and transportation of 22,375 cum involving value of ₹ 64.04 lakh (Details in Table 4.16).

Table 4.16:-Details of excess extraction of minor minerals

Name of Mahal	Period	No. of Royalty (Kist)/Bid Value (₹)	Stipulated Quantity up to 12 th kist (in CuM)	Transit Challan issued	Quantity of Minor Mineral extracted (in CuM)		Rate per CuM	Amount in excess extraction (in ₹)
					Actual	Excess		
Dhubri								
Changbandha-Boalkamri	06-05-17 to 06-09-19	1st to 12 th /7,17,857	30,000	7,600	38,000	8,000	287	22,97,142
Sapatgram-Ghagmari	06-05-17 to 20-01-20	1st to 12 th /7,17,857	30,000	8,650	43,250	13,250	287	38,04,642
Golaghat								
Kanaighat Sand Mahal No. 1/1	07-04-17 to 6-07-17	1 st /2,01,500	750	375	1,875	1,125	269	3,02,243
Total								64,04,027

On this being pointed out, DoE&F, Assam stated (January 2023) that at present, challans are being generated online which consist of details of MCA, vehicle number, quantity, etc. hence, scope of misappropriation of quantity is remote. However, Department's reply is silent about the loss of revenue due to excess extraction of minor minerals.

Recommendation: *The Government may consider putting in place a mechanism for proper monitoring of transportation of minor minerals.*

4.3.16 Illegal mining

The demand for minor minerals continues to increase day-by-day as building and construction of new infrastructure and expansion of existing ones continues, thereby placing immense pressure on the supply of minor minerals, and encouraging illegal mining. To restrict illegal mining, the MMDR Act, 1957 provides under Section 21 that any mineral raised and transported without any lawful authority from any land shall be liable to be seized. Further, Section 23 of the Act authorised the State Governments to make rules for preventing illegal mining, transportation and storage of minerals and for the purposes connected therewith.

¹⁷⁰ Dhubri and Golaghat Division.

The AMMC Rules, 2013 also made provisions for registering and compounding¹⁷¹ offence cases against illegal or unauthorised mining *i.e.*, mining operations without a valid mineral concession granted under the Act and the rules framed thereunder.

4.3.16.1 Non-issuance of stop of mining operations order

The AMMC Rules, 2013 made provisions¹⁷² for issue of stop order for extraction and despatch of minor minerals in case the concession holder fails to deposit the due amount within a period of thirty days of the due date along with interest thereon.

Audit noticed that in four¹⁷³ out of the 11 selected divisions, 17 MC holders failed to deposit their due amounts (instalments) of ₹ 2.04 crore within the stipulated period of 30 days (deposited after 121 to 255 days), however, no stop order had been issued by the authority.

On this being pointed out, DoE&F, Assam stated (January 2023) that now payment and notices are triggered online as such, there is no scope of delay in depositing royalty, *etc.*

4.3.16.2 Illegal operation of Minor Mineral concessions:

Some instances of illegal mining and transportation noticed by Audit from the divisional records are as under:

- 1) In Baksa division, the MCA *viz.*, Khagrabari Stone and Sand Gravel (settled in September 2015) was terminated (January 2021) due to non-payment of quarterly instalments¹⁷⁴ from July 2020 onwards. However, there were instances of extraction (January-February 2021) of 1,104 cum of minor minerals at the same area of Khagrabari, which was seized by the officials of Baksa division.
- 2) In Dibrugarh division, the MCA *viz.*, DBR 18 on Buridehing river remained idle during December 2013 to January 2017. However, during the idle period the EE, Irrigation, Dibrugarh informed (November 2015) the DFO, Dibrugarh division that extraction of sand was in progress, which obstructed the course of Buridehing River. Further, the Officer in Charge of Tengaghat Police Station had seized (February 2020) three vehicles carrying sand and sand gravel based on a public complaint relating to illegal extraction and selling of sand from Buridehing river coast. Due to the instances of illegal extraction of minerals from the area, the DFO requested (December 2020) the SP, Dibrugarh for enquiry and to make arrangements to stop illegal mining.

¹⁷¹ (i) for a first-time violation, the said mineral shall be liable to be seized which may be released only upon realisation of the payment of (a) price of the mineral and (b) the applicable royalty for the mineral extracted and in addition, a fine which shall not be less than (c) Ten Thousand rupees;
(ii) for a second time violation, the said mineral shall be liable to be seized which may be released only upon realisation of the payment of (a) price of the mineral and (b) the applicable royalty for the mineral extracted and, in addition, a fine which shall not be less than (c) fifteen thousand rupees;
(iii) wherever a person is found to be indulging in such offence for the third time or more, the officer concerned shall register an FIR.

¹⁷² Rule 38 (7) of AMMC Rule, 2013.

¹⁷³ Nagaon, Baksa, Golaghat and Dhansiri.

¹⁷⁴ 19th instalment.

3) In Nagaon South Division, the Range officer submitted a report (February 2019) to the DFO mentioning illegal extraction of minor minerals from different areas (15 sand *ghats*) in and around the Doboka Sand Mining Area- 1 & 2.

4) In three MCAs *viz.*, Modertoli Stone Mining Unit -2, 3 & 4 under the Nagaon South division, an enquiry was carried out by the ACF who reported (October 2020) that there was illegal transportation of minor minerals using dumpers from these MCAs; however, further action taken was not on record.

The above instances are indicative of illegal extraction and transportation of minor minerals.

On this being pointed out, DoE&F, Assam stated (January 2023) that steps are being taken to operationalising the idle MCAs to minimise illegal mining.

4.3.16.3 Provisions for extraction of minor minerals for Government works

Rule 63 of the AMMC Rules, 2013 provides that any mining operation without valid authorisation shall be deemed to be indulging in illegal or unauthorised mining and shall be dealt in accordance with the provisions contained in Rule 64 of the Rules *ibid*. Rule 64 stipulates that in case of first time violation, the illegal/un-authorized extracted minerals shall be liable to be seized and may be released only upon realisation of payment of price of minerals and applicable royalty in addition to a fine not less than ₹ 10,000.

Audit noticed that in Dhemaji division, during the period 2019-20, in 51 offence cases, 2,21,110 cum of illegally extracted minor minerals¹⁷⁵ had been seized. Of these 51 offenders, two were existing MC holders¹⁷⁶ and 12 were Government contractors.

However, the division did not initiate any steps either against MC holders or against the Government contractors as per provisions made under AMMC Rules, 2013.

Audit further noticed that in these 51 cases, the CCF & Nodal Officer (FC Act), Assam instructed¹⁷⁷ (July 2019) the CF, Northern Assam Circle to compound the cases by retaining the seized materials as government property and realise an amount equal to 25 *per cent* of price of seized minor minerals or ₹ 10,000, whichever is more, from the claimant/ offender. Further, the CCF directed to dispose of the seized materials by granting permits for various Government works against valid indents and also stated that such action should not become a precedent and inducement for carrying out illegal mining in future.

However, the decision taken by CCF was not in compliance with Rule 64 of AMMC Rules, 2013. Rule 64 required that the offender be made to pay the market price as well as the royalty on the amount seized. Instead, the CCF decided to retain the seized material and levy a penalty of only 25 *per cent* of the royalty, thereby leading to short

¹⁷⁵ Sand and gravel.

¹⁷⁶ (1) Sri Joy Kr. Basumatary-Upper Subensiri Sonapur S&G MC holder (2) Sri Debojit Gogoi- Upper Subensiri Tamuli S&G MC holder.

¹⁷⁷ Provisions made under Section 23A read with Section 21 of the MMDR Act 1957 read with Rule 64 and 74 of the AMMC Rules 2013 and Govt. notification No FRM. 300/2012/321 dated 17-05-2013.

realisation of the balance 75 per cent of the total royalty¹⁷⁸, amounting to ₹ 3.19 crore, which would have ordinarily been leviable under Rule 64.

In all other cases pertaining to four out of the 11 selected divisions examined by audit, it was noticed that the DFOs had released the seized materials to the offenders only on realisation of penalty of cent per cent price of minerals, royalty and applicable fine as stipulated under Rule 64 of AMMC Rules, 2013.

On this being pointed out, DoE&F, Assam stated (January 2023) that as per amendment of AMMC Rules, 2013 (October 2021) certain percentage had been fixed for collection of revenue on project cost basis for developmental works undertaken by the Government and royalty is being deducted from the bills of the contractors. Even if they use illegally collected material in Government works, royalty would be deducted from their bills, and as such, there is no loss of royalty. However, the Department is silent about the environmental implications due to illegal extraction of minor minerals besides levy of penalty for illegal extraction of minor minerals as per provision of AMMC Rules, 2013.

4.3.16.4 Systemic deficiency in regulation of offence cases

The Assam Minor Mineral Concession Rules, 2013 made provisions for restriction of illegal or unauthorised mining by imposing fines of ₹ 10,000, ₹15,000 and FIR against the person involved for similar offence on the first, second and third occasion respectively.

Audit noticed that the selected divisions had not maintained any electronic database of such offence cases. From the 'Offence Case Register' maintained in three divisions¹⁷⁹, audit noticed that 19 cases were compounded considering them as first time offence with collection of ₹ 10,000 in each case, though they had violated the rules more than once. Thus, non-maintenance of any centralised electronic database not only encouraged illegal mining but also resulted in short collection of fines.

On this being pointed out, DoE&F, Assam stated (January 2023) that efforts would be made to maintain an online database of offences.

4.3.16.5 Monitoring Mechanism

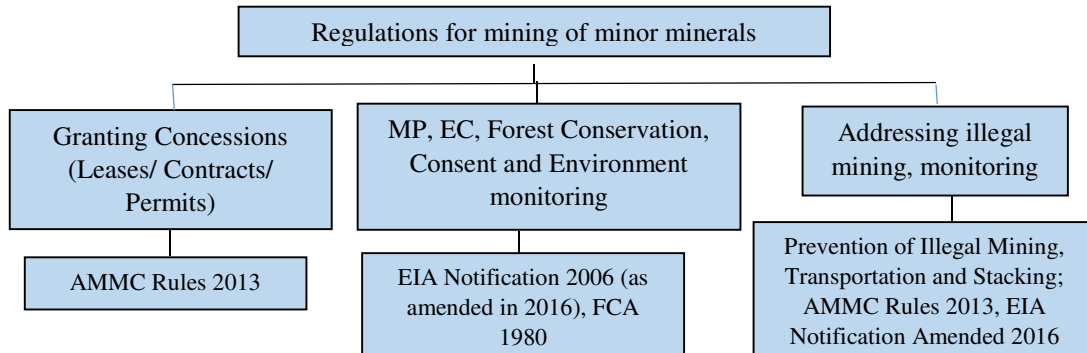
An appropriate monitoring system to monitor the implementation of AMMC Rules, 2013 would not only ensure scientific mining of minor minerals but also ensure correct revenue collection for the State exchequer. To enhance the monitoring system of mining of minor minerals in the country, the Ministry of Environment, Forest & Climate Change formulated the Enforcement & Monitoring Guidelines for Sand Mining, 2020 to serve as a guidance for collection of critical information for enforcement of the regulatory provision(s) and also highlight the essential infrastructural requirements necessary for effective monitoring for sustainable sand mining. Special emphasis is

¹⁷⁸ Total royalty on seized material (Sand at ₹ 140 [27181 cum], Stone at ₹ 200 [104746 cum], Sand-Gravel at ₹ 200 [89184 cum] = ₹ 4,25,91,340.

¹⁷⁹ Nagaon, Dhubri and Dibrugarh.

given on monitoring of the mined-out material, which is key to the success of the environmental management plan.

The flowchart of the overarching regulatory framework for mining of minor minerals is as follows:



4.3.16.6 Requirements & existing monitoring system

The necessary requirements to facilitate effective monitoring and enforcement of regulatory provision for mining of minor minerals in Assam are as follows:

- (i) Identification, quantification and feasibility of mining of minor minerals considering various environmental¹⁸⁰ and other factors such as habitation, prohibited area, *etc.*
- (ii) As per the recommendation of the Hon'ble Supreme Court (2012), unplanned grant of mining of minor minerals through contracts and permits for shorter periods (mostly for two years) instead of grant of lease for longer period leads to difficulty in regulating and monitoring.
- (iii) Mining Plan which connects the mine with all stakeholders is an important document to operate the mine in a scientific manner.
- (iv) As per notification issued by MoEF (September 2006), a half yearly compliance report in respect of the stipulated terms and conditions of EC is required to be submitted by the implementing authority to the regulatory authority *i.e.*, SEIAA.

In the light of above, audit observed the following:

- a. In order to address the issues *viz.*, identification, quantification and feasibility of mining considering various environmental and other factors, more emphasis is required on the preparation of DSR and its format for reporting.
- b. There was lack of monitoring in preparation of MPs and their implementation as there is no practice for regular replenishment study to ascertain the rate of depositing and replenishment of the deposits of minor minerals as indicated by the inconsistency in calculation of mineable reserves pointed out in Paragraph 4.3.10.3.

¹⁸⁰ Proximity of protected area, wetlands, creeks, forest, *etc.*

- c. With regard to submission of compliance report to SEIAA, none of the selected divisions had submitted the compliance reports to SEIAA. However, non-submission of the compliance reports was neither reported to the Department of Environment & Forest nor to the Department of Mines & Minerals.
- d. Instances of illegal mining showed that there was a need for strengthening the system of mineral dispatch and its monitoring. Further, there was a lack of proper monitoring of the transportation of minor minerals.

Thus, it is clear that non-compliance to different provisions of AMMC Rules, 2013 at different levels resulted in lack of accountability of the lessee to any of the monitoring agencies.

On this being pointed out, DoE&F, Assam stated (January 2023) that a new Standard Operating Procedure is being made operational wherein GPS tracking system would be installed to track the movement of vehicles transporting minor minerals.

4.3.16.7 Lack of comprehensive databases

In respect of leases/contracts other than current ones, the implementing Department *i.e.*, the Department of Environment & Forest did not have a comprehensive database, such as their status indicating date of expiry of the contract period, details of renewal application filed, pendency at various stages, demand, collection & balance, *etc.* Due to the absence of a comprehensive database of MCAs, the Department was not in a position to monitor the same properly.

The fragmentation and multiplicity of functions has also led to ineffectiveness in the functioning of regulatory authorities. The requirement of MP and ECs, as brought under different acts, notifications, *etc.* will not help to alleviate the situation with respect to mining of minor minerals.

On this being pointed out, DoE&F, Assam stated (January 2023) that now a comprehensive online database is being maintained.

4.3.16.8 Lack of validation check in online collection system

Audit noticed that government revenue and other dues are collected online *w.e.f.* June 2020. However, there was lack of validation check in the database as it was noticed that though contribution towards MMDRR fund and DMFT fund were calculated in the online system, the prescribed rate was not applied which resulted in short realisation of ₹ 11.35 lakh (**Appendix–XLII**).

On this being pointed out, the M&M Department, Assam stated (January 2023) that necessary action would be taken for validation checks in the online collection system.

4.3.17 Conclusion

Granting of mining areas for shorter period in place of a longer period under mining lease/contract not only increases gap periods between consecutive settlement of MCAs but also encourages the rapid exploitation of mineral without really undertaking adequate measures for reclamation and rehabilitation of mined out area. Further,

non-implementation of cluster approach prevents eco-friendly scientific and sustainable mining especially in case of small river bed mineable areas. Again, the fixation of reserve prices without following a specific method of calculation of reserve price and quality assessment of minor minerals led to abrupt fixation of reserve price. Further, the bidding process repeats due to default in payment of Government dues by the MC holders selected with an exorbitant rate resulted in occurrences of regular gap periods. Moreover, due to lacuna in preparation of mining plans and its monitoring, there were instances of illegal extraction of minor minerals. There was delay in sanction of EC, extraction of minor minerals without ECs, etc. Further, lack of appropriate database caused non-realisation, short realisation and non-upscaling of security deposits. Due to non-creation of appropriate head of account under Public Account even after a lapse of eight years, the collected MMDRR fund could not be accounted in govt. accounts and also could not be utilised for the purposes for which the same was provided. While in case of DMFT fund, there were issues like merging of MMDRR fund with the DMFT fund though objectives of both the funds are differed from each other. The fund collected and accounted for under the MMDRR and DMFT needs to be reconciled.

There is thus a strong need to review the AMMC Rules, and for a comprehensive approach for instituting a cohesive, effective and transparent regulatory and institutional framework. Fragmentation and multiplicity that exist in the processes of assessment, granting permissions for mining of minor minerals, and monitoring needs to be addressed comprehensively. To ensure this, convergence must happen in these processes, and responsibilities of various departments and authorities will also have to be consolidated accordingly.

4.3.18 Recommendations

The Government may

- i. Consider the early finalisation and implementation of the model State Mineral Policy.*
- ii. Ensure that the DSRs are prepared in a time-bound manner.*
- iii. Consider inserting a provision for formation of cluster in the AMMC Rules through amendment and implement the same.*
- iv. Put in place a computerised database to monitor project-wise utilisation of minor minerals by the user departments so as to prevent unauthorised extraction of minor minerals by the contractors.*
- v. Put in place a mechanism to analyse the bid value and its impact on the market before acceptance so that exorbitant bid values could be discarded.*
- vi. Put in place a mechanism to assess availability of minerals through Mines and Minerals Department prior to NIT for optimum utilisation of mineral resources.*
- vii. Insert a provision for requirement of environmental clearance from the State Environment Impact Assessment Authority in the AMMC Rules.*

- viii. Consider depositing the security deposits under the Public Account.*
- ix. Take strict action against operation of MCA without registration of contract agreement.*
- x. Consider immediate creation of a head of account under Public Account and formation of a committee for utilisation of MMDRR fund as per AMMC Rules, 2013.*
- xi. Set up a mechanism for accounting of DMFT fund under both major and minor minerals separately with periodical reconciliation of the same.*
- xii. Consider putting in place a mechanism for proper monitoring of transportation of minor minerals.*