

## **Chapter – II**

### **Legal framework**



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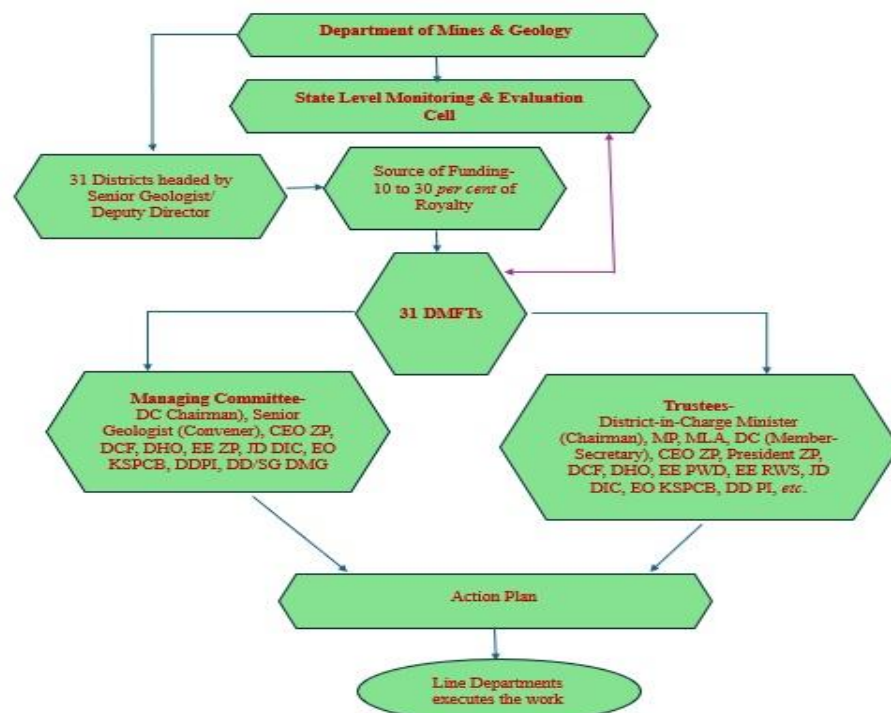
### Legal framework

*The DMFT Rules provide for nomination of stakeholders representatives from affected persons, industries, lease holders and environmental organizations from the districts, however, the nominations were made only in five districts. Even after two years, no amendment to the DMFT Rules 2016 was issued by the GoK though Ministry of Mines, GoI directed the State Governments and Union Territories to incorporate certain changes in the rules regulating the composition of Governing Council and Managing Committee of DMF with immediate effect. Test checked DMFTs did not prepare any Master Plan or Vision Document for the activities by the specialized agency. There was no base line survey conducted to prepare perspective plan and the test checked DMFTs did not prepare a list of affected persons/people.*

### 2.1 Organisational Setup

Separate Trusts by name ‘District Mineral Foundation Trust (DMFT)’ have been established in all the 31 districts of the State with the Minister in charge of the district as the Chairman, the elected members of Parliament and Assembly representing the District as trustees, the Deputy Commissioner of the District as trustee and member secretary, along with other trustees as prescribed in Rule 5 of the District Mineral Foundation Trust Rules, 2016. For the overall management and administration of DMFT, GoK constituted (March 2018) a State Level Monitoring & Evaluation Cell (M&E Cell) in the Directorate, Department of Mines & Geology (DMG). The district level offices of DMG, are headed by Deputy Director/Sr. Geologist, and they are the ex-officio-member and convenor of the respective DMFTs.

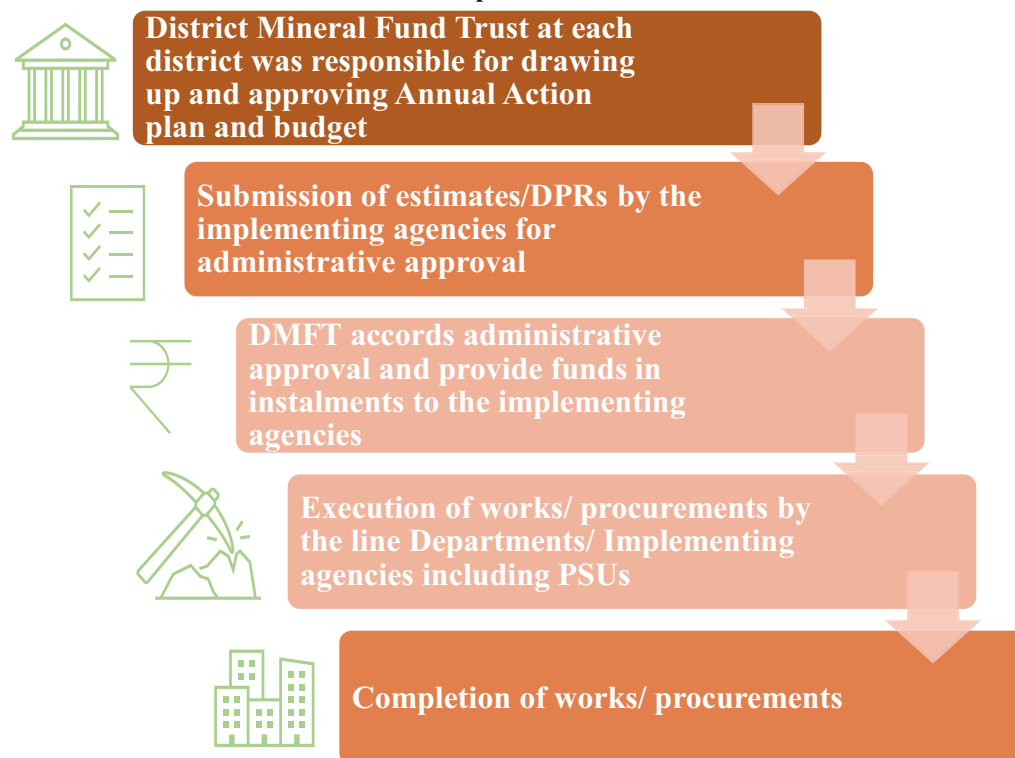
Chart No. 2.1: Organogram of DMG in relation to DMFT



## 2.2 Implementation of scheme

The Contribution to the DMFT funds are collected from the Mining lease holders by DMG and passed on to the DMFTs. The projects and programs under PMKKKY are being implemented through various Departments of the GoK, and other agencies<sup>5</sup> (Implementing agencies). The step-by-step procedure followed during the implementation of the scheme was detailed below:

**Chart No. 2.2: Workflow for implementation of PMKKKY activities**



## 2.3 Constitution of DMFTs

District Mineral Foundations Trusts (DMFTs) in each District were established vide notification issued by GoK <sup>6</sup> (November 2015). Rule 5 of DMFT Rules, 2016 stipulates that each DMFT shall include Minister in charge of the district as the Chairman, the elected members of Parliament and Legislative Assembly from the District as members, the Deputy Commissioner of the district as member Secretary, the Deputy Director/Senior Geologist of the district as convenor and other members as detailed in *Appendix- 1*.

### 2.3.1 Nomination of Trustees

The DMFT Rules, 2016 also provided for eight trustees to be nominated by the

<sup>5</sup> Urban & Rural Local Bodies, Minor Irrigation, Social Welfare, Welfare of Aged and Disabled, Education, Women & Child Development, Forest including Social Forestry, Health and Family Welfare, Skill Development, Karnataka Rural Infrastructure Development Limited, Backward Classes, Police, Public Works, Rural Housing and external agencies like Nirmithi Kendra, Cashutec etc.

<sup>6</sup> Which were deemed to have come into existence with effect from 12 January 2015. The notification did not specify the Members of the Foundations, which were specified only in the DMFT Rules 2016 notified (January 2016), also with effect from 12 January 2015.

State Government viz.;

- Two from industries using minerals in the concerned District;
- Two from the holders of mineral or minor mineral concession belonging to the concerned District;
- One from a prominent Non-Governmental organisation or any institution working on environmental issues in the concerned District;
- Three from the community of affected persons from affected areas by notification.

Audit observed that trustees have been nominated only in five Districts<sup>7</sup> out of 31 Districts. The State Government did not nominate any such members for the remaining 26 Districts, including Ballari and Vijayanagara, which have intense mining activities. Failure to nominate these representative stakeholders detracted from the participative nature of the planning process.

### **2.3.2 Non-adherence to the GoI directions**

#### **Composition of Governing Council and Managing Committee**

The Ministry of Mines, GoI, observed the composition of Governing Council and Managing Committee of DMF varied from State to State and therefore, directed<sup>8</sup> (April 2021) the State Governments and Union Territories to incorporate certain changes in the rules regulating the composition of Governing Council and Managing Committee of DMF, with immediate effect.

In the State of Karnataka, the following changes were required in the DMFT Rules:

- The Chairman of Governing Council and Managing Committee shall be the Deputy Commissioner of the District. No other person could function as the Chairman of these committees.
- All Members of Parliament (Lok Sabha) from the district maybe a member of the Governing Council of the district or all such districts, if the constituency of Lok Sabha falls in more than one district.
- An MP of Rajya Sabha from a State shall be a member of the Governing Council of one district selected by him/her.

The GoI order also directed that any meeting of Governing Council or Managing Committee of District Mineral Foundation of a district held after issue of the order, will be held with composition as mandated above. However, no amendment to the DMFT Rules, 2016 was issued by the GoK, even after lapse of two years.

The Government replied (August 2024) that proposals were submitted (June

<sup>7</sup> Chitradurga, Tumkur, Chickballapura, Kalaburagi and Uttara Kannada.

<sup>8</sup> In exercise of the powers conferred under the proviso of sub-section (3) of Section 9B of the MMDR Act, 1957.

2021) by the Department of Mines & Geology to amend DMFT Rules, 2016 and that the Law Department had given approval for amendments. However, Audit observed that the amendment was not yet notified and the District in-charge Minister continued to be the Chairman of DMFT, instead of the Deputy Commissioner of the District.

### **2.3.3 Long term perspective plan**

Similarly, Ministry of Mines, GoI, with a view to cover all affected people and areas in a systematic and time bound manner, desired a long term perspective plan and, directed (June 2022) the State Governments and Union Territories to incorporate the following in the DMF rules:

- Baseline surveys for perspective plan formulation maybe conducted through Universities/Renowned Organisations/agencies. Gram Sabha/Local Bodies may aid in preparation of needs assessment reports. The DMFs may also use the baseline survey undertaken by any department, if available. The reference and major findings of the surveys should be included in the Perspective Plans under PMKKKY for the District.
- Based on the findings and gaps as identified through the baseline survey or any such survey/assessment, the DMF shall prepare a strategy for five years and the same shall be included in the Perspective Plan. The five-year perspective plan shall be prepared taking into account, the current balance available and likely accrual to the DMF over a period of five years. The five-year perspective plan shall be disaggregated into year wise action plans.

However, no amendments to the DMFT Rules, 2016 were issued by the GoK even after one year of such directions from GoI. As a result, no baseline surveys or long term perspective plans were prepared in the test checked districts.

The Government replied (August 2024) that proposals had been submitted (August 2022) for amendment of DMFT Rules, 2016 and that the Law Department of GoK had given approval for the amendments. However, Audit observed that these amendments were yet to be notified (January 2025).

## **2.4 Preparation of Annual Plans**

Rule 7 of DMFT Rule, 2016 mandates the preparation of Annual plan and Annual Budget for implementation of the Annual Plan by January of each year, for implementation in the forthcoming financial year. Rule 15 (3) of the DMFT Rules, 2016 stipulates the preparation of Master Plan or Vision Document for activities of the Foundation Trust by the Specialised Agency.

Ministry of Mines, GoI also directed (June 2022) the State Governments and Union Territories to incorporate amendments in the DMFT Rules for conducting baseline surveys through Universities/Renowned Organisations/agencies for perspective plan formulation. Based on the findings and gaps as

identified through the baseline survey or any such survey/assessment, the DMF shall prepare a strategy for five years and the same shall be included in the Perspective Plan. The five-year perspective plan shall be prepared taking into account the current balance available and likely accrual to the DMF over a period of five years. The five-year perspective plan shall be disaggregated into year wise action plans.

Audit observed the following:

- The DMFTs prepared Annual Action Plans which contained the list of schemes and projects but did not conduct any base line survey to prepare perspective plan; as a result of which the needs of the affected areas were not identified comprehensively and action plans had isolated and disjointed works. Instances of works taken up without analysing the needs of the affected areas are detailed in ***Paragraphs 5.5.1 and 5.8.1***.
- Rule 7 of DMFT Rule, 2016 stipulates only drawing of annual action plan. In this regard, detailed instructions and guidelines, such as involvement of line departments, role of nominated trustee, priority for the Head-wise works to be considered, extent of projects/programs to complement the existing ongoing schemes/projects of GoI and GoK, *etc.* were not prescribed by GoK.

The Government replied (August 2024) that a circular had been issued (December 2023) to concerned District Commissioners and Deputy Directors/Senior Geologists to conduct base line survey and prepare five year perspective plan. However, this circular was issued only after being pointed out by Audit and did not contain detailed instructions on the methodology.

### ***2.5 Directly and indirectly affected areas.***

Rule 21 (c) of DMFT Rules, 2016 stipulates that the DMF Trust should prepare and maintain an updated list of directly and indirectly affected areas by mining related operations. As per the Scheme Guidelines, Directly affected areas are where direct mining related operations are located and include villages within which mines are situated, villages where families displaced by mines are settled, villages that significantly depend on the mining areas for meeting their economic need and have usufructs or traditional rights over the area, eg. grazing, collection of forest produce *etc.* Also, an area within such radius from a mine as may be specified by the state Government. Indirectly affected areas are those areas where local population was adversely affected on account of social, economic and environmental consequences of mining related operations like deterioration of water, soil and air quality, congestion and pollution due to mining and transportation of minerals, *etc.*

The GoK *vide* Notification dated 20 January 2020 issued instructions for the identification of directly and indirectly affected areas in the districts as detailed below:

**Table No. 2.1: Instructions for the identification of directly and indirectly affected areas**

Sl. No.	Annual DMF Collection	District	Percentage of funds to be allocated to directly affected areas	Distance from the mining area for the directly affected areas		Percentage of funds to be allocated to the indirectly affected areas	Boundary of indirectly affected areas
				Major Minerals	Minor Minerals		
1	Above 100 crore	Ballari	30	10 kms	5 kms	70	Remaining areas of the district
2	50 to 100 crore	Kalburgi	40	10 kms	5 kms	60	-do-
3	20 to 50 crore	Chitradurga	50	10 kms	5 kms	50	-do-
4	Less than 20 crore	Remaining 28 districts	60	10 kms	5 kms	40	-do-

Source: Data compiled by Audit

- Instead of identifying specific areas or villages either directly or indirectly affected by each mine or quarry separately, the notification classifies the entire District/State, as either directly affected or indirectly affected by mining activities, merely based on the distance from the mine/quarry.
- As the funds that could be generated by way of contributions are limited and very minimal in most districts, (**Refer Appendix-2**), classifying the entire state as affected by mining operations could result in non-addressal of the concerns of mining-affected areas and/people.

The Government replied (August 2024) that, notification classifying the entire district as affected by mining activities was issued for all-round development of the District and a notification would be issued specifying the limits of the areas directly and indirectly affected by mining. However, Audit observed that the distance limits were not revised.

## **2.6 Identification of Affected people**

One of the objectives of PMKKKY scheme was to ensure long-term sustainable livelihoods for the ‘affected people’ in mining areas. Affected people are persons affected by mining, including people who had legal and occupational rights over the land being mined and also those with usufruct and traditional rights. As per Rule 21 of DMFT Rules, the DMFT should prepare and maintain a list of affected people in consultation with elected representatives of local bodies.

Audit observed that the test checked DMFTs did not prepare a list of affected persons/people. In the absence of such a list, Audit was unable to ascertain how projects were planned and targeted at particular beneficiaries and specifically, those affected by mining directly.



The Government replied (August 2024) that action would be initiated to prepare and maintain a list of affected people and plan schemes for individuals as per PMKKKY Guidelines, 2024.

**Recommendations:**

- 1. Audit recommends that, action may be taken by the State Government to amend the DMFT Rules to include the Government of India directions on conducting baseline survey, preparation of Perspective Plan and accordingly DMFTs should frame perspective and annual plans that meet the objectives of PMKKKY.**
- 2. Government should take action to increase awareness of the Scheme through Information, Education and Communication activities and issue suitable directions to DMFTs to prepare a list of affected persons/people to enable targeted planning of projects for those affected by mining directly.**