



Government of India
National Commission for Scheduled Tribes

6th floor, 'B' Wing, Loknayak Bhawan,
Khan Market, New Delhi-110003.

No. MC/Policy/2/2013/RU-IV

Date: 15.01.2013

To

- 1) Dr. Rameshwar Oraon, Chairperson
- 2) Smt. K Kamala Kumari, Member
- 3) Shri Bheru Lal Meena, Member

Sub: Draft Cabinet Note for Amendment of Coal Bearing Areas (acquisition & Development) Act, 1957.

Sir/Madam,

I am directed to circulate a copy of OM No. 17011/01/20113-P&M dated 07.01.2013 of the Ministry of Tribal Affairs regarding Draft Cabinet Note for Amendment of Coal Bearing Areas (acquisition & Development) Act, 1957 to enable return of mined out land to the State Governments. It is requested that views/suggestions on the proposal may kindly be sent for discussion in the forthcoming meeting of the Commission.

Yours faithfully,

(K.D. Bhansor) Mrs.
Deputy Director

Copy for information:-

1. Senior PPS to Secretary
2. PPS to Joint Secretary
3. Dy. Director
4. AD, C.Cell

5. Consultant (RCD)

6. SSA (NIC)

SR No. 1(R)

Handwritten notes in the top left corner: "11/1/2013", "Please put matter to Commission's meeting on 21st January 2013", and "The way to go ahead" written diagonally.

No. 17011/01/20113-P&M
Government of India
Ministry of Tribal Affairs

Room No.F-281, Bhikaji Cama Place.
August Kranti Bhawan, N. Delhi-110066
Dated 07.01.2013

Please put matter
to Commission's meeting
on 21st January 2013


OFFICE MEMORANDUM

Subject: **Draft Cabinet Note for Amendment of Coal Bearing Areas (acquisition & Development) Act, 1957 to enable return of mined out land to the State Governments (reg.)**

The undersigned is directed to forward herewith a copy of the OM No.43022/1/2010-PRIW-I dated 31st December, 2012 along with a copy of Draft Note for the Cabinet received from the Ministry of Coal on the above mentioned subject. It is requested that the views/comments of the National Commission for Scheduled Tribes may kindly be communicated to this Ministry at an early date keeping in view the timeframe.

Handwritten notes on the left side: "14/01", "NATIONAL COMMISSION FOR SCHEDULED TRIBES", "AD", "11/1/13", "10/11/13", "DDKDB", "E.P.S." and "WAS".

Handwritten notes in a circular stamp: "09/11/13", "10/11/13", and "R.H.H.".


(R.H.H Hmar)

Under Secretary to the Government of India.
Tel.26182423.

To,
The Joint Secretary
National commission for Scheduled Tribes
Room No.610, B-Wing 6th floor
Lok Nayak Bhawan. Khan Market N.Delhi.03

SECRET

No. 43022/1/2010-PRIW-I
Government of India
Ministry of Coal

Shastri Bhawan,
New Delhi, the 31st Dec., 2012

Sub: Draft Cabinet Note for Amendment of Coal Bearing Areas (acquisition & Development) Act, 1957 to enable return of mined out land to the State Governments-reg.

A copy of draft Cabinet Note on the above subject is forwarded herewith. It is requested that comments, if any, in the matter may please be sent to this Ministry within a period of fifteen days.

This issues with the approval of the Minister of Coal.

Encl: as stated

S.K. Singh
(S.K. Singh)
31/12/12

Joint Secretary to the Govt of India

Phone No: 23384887/ fax No. 23384893

To

1. Ministry of Rural Development. Department of Land Resources, 'G' Wing, NBO Building, Nirman Bhawan, New Delhi (Ms. Anita Chowdhary, Secretary).
2. Ministry of Urban Development, Nirman Bhawan, New Delhi (Shri Dr Sudhi Krishna Secretary).
3. The Planning Commission, Sansad Marg, New Delhi. (Ms. Sindhushree Khullar, Secretary).
4. Ministry of Tribal Affairs, Shastri Bhawan, New Delhi (Secretary).
5. Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi (Shri Dr.T. Chatterjee, Secretary).
6. Ministry of Law & Justice, Department of Legal Affairs, Shastri Bhawan, New Delhi (Shri Brahm Avtar Agarwal, Secretary).
7. Ministry of Finance, Department of Economic Affairs, North Block, New Delhi (Shri Arvind Mataram, Secretary).
8. Ministry of Finance, Department of Expenditure, North Block, New Delhi (Shri R.S. Gujral, Secretary).

DS (PRA)
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By: 20
Date: 02/01/2013

14/10/11
9/11/12

1/5/12
2/1/2013

DRAFT

Copy No.

No. 43022/1/2010-PRIW-I
GOVERNMENT OF INDIA
MINISTRY OF COAL

New Delhi, the dated 2012

NOTE FOR THE CABINET

**Sub: Approval of Coal Bearing Areas (Acquisition and Development)
Amendment Bill, 2013.**

INTRODUCTION:

1. The proposal is for consideration and approval of the Cabinet for introducing the Coal Bearing Areas (Acquisition and Development) Amendment Bill, 2013 in the Lok Sabha to insert a provision to enable return of mined out/unutilized land to the concerned State Governments on the basis of this amendment.

BACKGROUND:

2. Land for coal projects is acquired by Ministry of Coal, mainly through the instrument of the Coal Bearing Areas (Acquisition and Development) Act, 1957, (hereafter referred to as CBA Act) under which both the surface rights and mining rights can be acquired. After issuing notifications under Sections 4(1) and 7(1), the land is acquired through the issue of a notification under Section 9(1) and the rights

and titles of that land are subsequently transferred to the concerned coal companies through an order under Section 11(1) of the CBA Act.

2.1 The need for return/transfer of land arises as large area of land acquired under CBA Act, are sometimes left unutilized due to various reasons, such as completion of mining, shelving of the envisaged projects at later stage due to various reasons including environment and forestry clearances, land acquired found to be in excess of actual requirement or other unforeseen circumstances, because of which the acquired land is no longer required by the coal companies. Such tracts of land are prone to unauthorised encroachment and entail avoidable expenditure on security and maintenance which underscores the need for putting in place a policy for alternative utilisation of such land at the earliest. There are also various instances when land was acquired but due to the project not taking off; land owners have been demanding return of their land. Some State Governments are also demanding surrender/return of such land from coal companies for various uses of the State Governments.

2.2 Keeping the above factors in view, a Committee was constituted by the Ministry of Coal, vide O.M. No. 43022/4/2008-PRIW-I dated 15.12.2009, under the Chairmanship of Additional Secretary (Coal), with members from Department of Legal Affairs, Department of Land Resources and Coal India Limited to lay down a clear policy to guide alignment of land acquired under the CBA Act in particular and land acquired otherwise in general, in totality. The Committee discussed the issue on 15.2.2010 when it was decided that a reference be made to the Ministry of Law to

get their advice in the matter. In the opinion of the Ministry of Law, "there is no express prohibition in the CBA (A&D) Act, 1957 for transferring the coal bearing, mined out and surplus land acquired under CBA (A&D) Act, 1957 either to the State Government or to any person or using it otherwise. The Government being the absolute owner of the land has agreed to make the required amendments in this regard. We see no legal objection in laying down a policy in the interest of public and in conformity with the existing legal norms and principles."

2.3 The matter was further discussed by the Committee on 22.11.2011 and 20.6.2012. The question as to whom the said land is to be returned to, whether to the original land owners from whom the land had been acquired or to the concerned State Governments, has been discussed in detail by the Committee. The Committee has not recommended the return of land to the individual from whom it was acquired as the return of land to the original land owners who have already been compensated for the same is not feasible and they cease to have any legal rights over such land after receipt of the permissible compensation and Rehabilitation and Resettlement benefits. On the other hand, the concerned State Governments are the custodians of all the land situated within their jurisdiction and otherwise possess both surface and mining rights over such land. It has been recommended by the inter-ministerial Committee to return the land, which is mined out or no longer required by the subsidiary coal companies of Coal India Limited (CIL), to the State Governments concerned. Reclaimed afforested land that is returned to the State Governments will be counted in compensatory afforestation towards future

acquisition of forest land for mining and may be reserved by the State Governments for the purpose. The balance land is proposed to be returned to the State Governments free of cost. State Governments will be advised to form a Land Bank of such transferred area to be used for their future projects in public interest. In case the returned land is used for commercial purpose, the State Governments will pay the prevailing market value of land to CIL. The market value of the land will be calculated as per the provision of the prevailing Central or State LA Act or the prevailing system for the calculation of market value by the State Government. To this effect, an Amendment Bill has been drafted as at Annexure-I, for placement in the Parliament.

PROPOSAL:

3. Mined out land / surplus land available with Coal Companies shall be transferred / returned under the CBA Act to the State Governments including land which has been

(a) acquired, but yet to be taken into possession, but no longer required for mining and allied activities;

(b) acquired, taken into possession after payment of Resettlement and Rehabilitation (R&R) benefits but no longer required for mining and allied activities; and

(c) acquired, taken into possession after providing Resettlement and Rehabilitation (RR) benefits and worked out with or without leaving thinning reserves.

3.1 The land so returned shall be properly mapped out before returning and coal seams known to be available therein shall be clearly mentioned.

3.2 Mined out land shall have been reclaimed by the coal companies as per the Mine Closure Plan guidelines before it is so returned.

3.3 Return of land may be enabled by inserting in CBA Act a section 18B, after section 18A, as follows:

“18B. The Central Government may, by order in writing, in respect of the land acquired under this Act, return to the State Government concerned land

(a) Which is yet to be taken into possession but is no longer required for mining and allied activities;

(b) Which has been taken into possession after payment of compensation, but is no longer required for mining and allied activities;

(c) Which has been taken into possession after providing Rehabilitation and Resettlement benefits to the project affected families and is worked out with or without leaving thinning reserves:

Provided that -

a) The land so returned shall be mapped out before returning and coal seams known to be available therein shall be clearly mentioned.

b) Before return of mined out land it shall be ensured by the coal company concerned that the land has been reclaimed as per the Mine Closure Plan guidelines.

c) Reclaimed afforested land that is returned to the State Governments shall be counted as compensatory afforestation towards future acquisition of forest

land for mining and may be reserved by the State Governments for the purpose.

- d) The balance land shall be given to the State Governments free of cost and they may be advised to form a Land Bank of such transferred area to be used for their future projects in public interest.
- e) In case the returned land is used for commercial purpose, the State Governments shall be bound to pay the prevailing market value of land to CIL. The market value of the land shall be calculated as per the provision of the prevailing Central or State LA Act or the prevailing system for the calculation of market value by the State Government.

Justification:

4. The subject of land and related matters concern the State Governments, which hold the surface as well as mining rights over the land situated within their jurisdiction. The Central Government has been given special privilege to acquire the land under the CBA Act, with the surface and mining rights for use of coal mining activities only, through Government Companies. Coal Companies are in possession of large tracts of land which are no longer required by them on account of them being mined out or for various other reasons. Protecting such land against encroachment and maintenance of the same often involves unnecessary expenditure on the part of the Coal Companies. Return of land thus acquired either to its owners, other citizens, for forestry or for any other purpose is not within the domain of coal companies or Ministry of Coal. As such,

if the land is not required anymore by the Central Government / coal companies, it needs to be returned to the State Governments concerned, which are the custodians of all land situated within their jurisdiction and they can then decide on the appropriate utilisation of such land. The transfer / reversion of land to the State Governments can be done through de-notification by the Central Government. It is therefore considered appropriate that all such land, which is acquired by Coal India Limited and its subsidiaries under the CBA Act but no longer required by them may be transferred /returned to the State Governments by insertion of a new section 18B after section 18A of the CBA Act as per the draft Amendment Bill given in Annexure-I.

INTER- MINISTERIAL CONSULTATIONS:

5. The draft Note for the Cabinet will be circulated to all the concerned Ministries i.e. Ministry of Law and Justice (Department of Legal Affairs), Ministry of Finance (Department of Expenditure, Department of Economic Affairs), Ministry of Rural Development (Department of Land Resources), Ministry of Urban Development, Planning Commission and Ministry of Environment & Forests. The comments and observations received from these Ministries will be duly incorporated in the final Cabinet Note.

FINANCIAL IMPLICATIONS:

6. There are no financial implications of this proposal in terms of seeking any approval for incurring of expenditure.

APPROVAL SOUGHT:

7. Approval of the Cabinet is solicited for introducing the Coal Bearing Areas (Acquisition and Development) Amendment Bill, 2013 in the Lok Sabha for making

amendment in CBA Act for transfer /return of the mined out land or unutilised land to the State Governments by inserting a new section 18B after section 18A as proposed in para 3 above.

8. The statement of Implementation Schedule is given at Appendix I.
9. A statement of equity, innovation and public accountability is attached at Appendix II
10. Appendix III is for infrastructural projects. It is not applicable in this case.
11. This Note has the approval of Hon'ble Minister of Coal.

(S. K. SINGH)
JOINT SECRETARY TO THE GOVT. OF INDIA

Tele No.011-23384887
Fax No.011-23384893

APPENDIX-I

STATEMENT OF IMPLEMENTATION SCHEDULE

Subject: Approval for Coal Bearing Areas (Acquisition and Development)

Amendment Bill, 2013.

| Gist of the decision required | Projected benefits | Time frame and manner of implementation |
|---|--|---|
| <p>Approval of the Cabinet is solicited for introducing the Coal Bearing Areas (Acquisition and Development) Amendment Bill, 2013 in the Lok Sabha for making amendment in Coal Bearing Areas (Acquisition and Development) Act, 1957 for transfer /return of the mined out land or unutilised land to the State Governments.</p> | <p>The amendment in CBA Act, 1957 will lay down the provisions for return of land acquired under the said Act to State Governments concerned, who can then decide on further appropriate utilisation of such land.</p> | <p>Consequent upon the approval of the Cabinet, the Coal Bearing Areas (Acquisition and Development) Amendment Bill, 2013 will be tabled in the Lok Sabha for consideration and voting.</p> |

(S.K. SINGH)

JOINT SECRETARY TO THE GOVT. OF INDIA

Tel No.011-23384887

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APPENDIX – II

(Reference Para 9)

STATEMENT OF EQUITY, PUBLIC ACCOUNTABILITY and INNOVATION**Sub: Approval for Coal Bearing Areas (Acquisition and Development) (CBA(A&D) Amendment Bill, 2013.**

| Sl. No. | The required goal | How does the proposal advance this goal? |
|---------|--------------------------|--|
| 1 | Equity or inclusiveness. | The proposed amendment will ensure that the mined out/surplus land will be put to optimal utilisation in the public interest. |
| 2 | Public accountability. | Public accountability is kept in mind while acquiring the land under the CBA Act, 1957 by inviting objections from the affected persons and being heard by the competent authority. The affected persons are given RR benefits as per the prevailing policy. The proposed amendment in CBA Act, 1957 will not adversely affect the above stated public accountability. |
| 3 | Innovation. | The proposed amendment will bring a policy which will be beneficial to the coal companies and the State Governments as the unutilised land will be put to its best utilization. |

(S.K. Singh)
 JOINT SECRETARY TO THE GOVT OF INDIA
 Tel No. 011-23384887
 Fax No.011-23384893

Appendix-III

(Reference para 10)

Statement showing milestones and corresponding target dates.

This is for infrastructural projects, hence not applicable.

(S.K. SINGH)

JOINT SECRETARY TO THE GOVT OF INDIA

Tel No 23384887

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ANNEXURE-I

**No.43022/1/2010-PRIW-I
GOVERNMENT OF INDIA
MINISTRY OF COAL**

| | |
|--|--|
| <p><u>THE COAL BEARING AREAS (ACQUISITION AND DEVELOPMENT) (AMENDMENT) BILL, 2013.</u></p> <p style="text-align: center;">A</p> <p style="text-align: center;">BILL</p> <p>further to amend the Coal Bearing Areas (Acquisition and Development) Act, 1957</p> <p>Be it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:-</p> <p>1. (1) This Act may be called the Coal Bearing Areas (Acquisition and Development) (Amendment) Act, 2013.</p> <p>(2) It extends to the whole of India, except the State of Jammu and Kashmir.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> <p>2. In the Coal Bearing Areas (Acquisition and Development) Act, 1957, after Section 18A, the following Section shall be inserted, namely:-</p> <p>“18B. The Central Government may, by order in writing, in respect of the land acquired under this Act, return to the State Governments concerned land</p> | <p>20 of 1957</p> <p>Short title, application and commencement.</p> <p>Insertion of new section (Return of mined out land/surplus land no longer required for mining and allied activities or de-notification of land acquired).</p> |
|--|--|

- (a) which is yet to be taken into possession but is no longer required for mining and allied activities;
- (b) which has been taken into possession after payment of compensation, but is no longer required for mining and allied activities;
- (c) which has been taken into possession after providing Rehabilitation and Resettlement benefits to the project affected families and is worked out with or without leaving thinning reserves:

Provided that

- a) The land so returned shall be mapped out and coal seams known to be available therein shall be clearly mentioned.
- b) Before return of mined out land it shall be ensured by the coal company concerned that the land has been reclaimed as per the Mine Closure Plan guidelines.
- c) Reclaimed afforested land that is returned to the State Governments shall be counted in compensatory afforestation towards future acquisition of forest land for mining and may be reserved by the State Governments for the purpose.

- | | |
|--|--|
| <p>d) The balance land shall be given to the State Governments free of cost and they may be advised to form a Land Bank of such transferred area to be used for their future projects in public interest.</p> <p>e) In case the returned land is used for commerce purpose, the State Governments would be bound to pay the prevailing market value of land to CIL. The market value of the land shall be calculated as per the provision of the prevailing Central or State LA Act or the prevailing system for the calculation of market value by the State Governments.</p> | |
|--|--|