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**STANDING COMMITTEE ON
COAL AND STEEL
(2008-2009)**

FOURTEENTH LOK SABHA

MINISTRY OF MINES

**THE MINES AND MINERALS
(DEVELOPMENT AND REGULATION)
AMENDMENT BILL, 2008**

THIRTY-NINTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

February, 2009/Magha, 1930 (Saka)



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THE MINES AND MINERALS (DEVELOPMENT
AND REGULATION) AMENDMENT
BILL, 2008

Presented to Lok Sabha on 19.2.2009

Laid in Rajya Sabha on 19.2.2009



LOK SABHA SECRETARIAT
NEW DELHI

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COMPOSITION OF THE STANDING COMMITTEE ON
COAL AND STEEL (2008-09)

Dr. Satyanarayan Jatiya — *Chairman*

MEMBERS

Lok Sabha

2. Shri Hansraj G. Ahir
3. Shri D.K. Audikesavulu
4. Shri Hiten Barman
5. Shri Bansagopal Choudhury
6. Shri Chandra Shekhar Dubey
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12. Shri Tarachand Sahu
13. Shri Raghuraj Singh Shakya
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15. Shri Rewati Raman Singh
16. Shri Sugrib Singh
17. Shri Bhisim Shanker *alias* Kushal Tiwari
18. Shri M. Anjan Kumar Yadav
19. Shri Anirudh Prasad *alias* Sadhu Yadav
20. Shri Arun Yadav
21. Vacant

Rajya Sabha

22. Shri Mohd. Ali Khan
23. Dr. T. Subbarami Reddy

(iv)

24. Shri Jesudas Seelam
25. Shri Yashwant Sinha
26. Shri Jai Prakash Narayan Singh
27. Shri Ali Anwar Ansari
28. Shri T.K. Rangarajan
29. Shri B.J. Panda
30. Shri R.C. Singh *alias* Ram Chandra Singh
31. Shri Swapan Sadhan Bose

SECRETARIAT

1. Shri Ashok Sarin — *Joint Secretary*
2. Shri A.S. Chera — *Director*
3. Shri Shiv Singh — *Deputy Secretary*

INTRODUCTION

I, the Chairman, Standing Committee on Coal and Steel having been authorised by the Committee to present the Report on their behalf, present this Thirty-Ninth Report (Fourteenth Lok Sabha) on “The Mines and Minerals (Development and Regulation) Amendment Bill, 2008” pertaining to the Ministry of Mines.

2. One of the functions of the Standing Committee on Coal and Steel as laid down in Rule 331E (1) (b) of ‘The Rules of Procedure and Conduct of Business in Lok Sabha’ is to examine such Bills pertaining to the concerned Ministries as are referred to the Committee by the Chairman, Rajya Sabha or the Speaker, Lok Sabha, as the case may be, and make Report thereon. In pursuance of this Rule, “The Mines and Minerals (Development and Regulation) Amendment Bill, 2008”, introduced in Rajya Sabha on 17th October, 2008, was referred by the Hon’ble Speaker to this Committee on 31st October, 2008 for examination and Report.

3. The Committee had a briefing from the representatives of the Ministries of Coal and Mines on the Bill on 5th December, 2008. The Committee further discussed the Bill at their sitting held on 20th January, 2009. The Committee took oral evidence of the representatives of the Ministries of Coal and Mines on 17th February, 2009.

4. The Committee express their thanks to the officials of the Ministries of Coal and Mines for placing before them the material and information desired from time to time in connection with examination of the Bill.

5. The Committee also place on record their appreciation for the invaluable assistance rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee in connection with examination of the Bill and drafting of the Report thereon.

(vi)

6. The Committee considered and adopted the Report at their sitting held on 17th February, 2009.

7. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

NEW DELHI;
18 February, 2009

29 Magha, 1930 (Saka)

DR. SATYANARAYAN JATIYA,
Chairman,
Standing Committee on Coal and Steel.

REPORT

“The Mines and Minerals (Development and Regulation) Amendment Bill, 2008” has been referred by the Hon’ble Speaker to the Standing Committee on Coal and Steel for examination and report.

1.2 In this connection, the Ministry of Coal have furnished the following background note:—

“Most of the major coal mines in the country were nationalised in 1972 and 1973, except those with the producers of iron and steel. Coal mines that could not be nationalized were still being worked by private leaseholders. In 1976, the Coal Mines (Nationalisation) Amendment Act, 1976 was enacted. It, *inter-alia*, terminated all the mining leases with the private lease holders except those of the iron and steel producers who were allowed by the Act to carry on coal mining. In June 1993, the Coal Mines (Nationalisation) Amendment Act, 1993 was passed which allowed Indian companies engaged in generation of power, in addition to the iron and steel producers, to carry on coal mining for their captive use. It also allowed washing of coal obtained from a mine at the pithead. Further, by an enabling provision contained in the said Act, production of cement was notified as an end use for mining of coal with effect from the 15th March, 1996. Thus, as per the existing law, mining of coal by Indian private companies is allowed for their captive use in iron and steel production, generation of power, and cement production. Production of syn-gas obtained through coal gasification (underground and surface) and coal liquefaction were notified as specified end uses for the purpose of captive mining on 12th July, 2007.

The Central Government had decided in February, 1997 to allow mining of coal by an Indian company without the restriction of

captive mining. A Bill, namely, the Coal Mines (Nationalisation) Amendment Bill, 2000 was introduced in the Rajya Sabha on the 24th April, 2000 for the purpose and the same is pending in that House.

In order to implement the provisions for captive mining of coal, a Screening Committee was set up in the Ministry of Coal, through an administrative order, to consider applications made by various companies interested in captive mining and to allocate coal blocks for development, subject to the provisions of the other statutes governing coal mining. A number of coal blocks, which were not in the production plan of the Coal India Limited (CIL) subsidiaries and the Singareni Collieries Company Limited (SCCL), were identified in consultation with CIL/SCCL and a list of 229 such blocks were prepared and placed on the website of the Ministry for information of public at large. Further, a set of guidelines were prepared for the guidance of prospective applicants. The Screening Committee comprises the Secretary (Coal) as the Chairman, Joint Secretary (Coal) as the Member-Secretary, Adviser (Project), representatives of Ministry of Steel, Department of Industrial Policy and Promotion (Ministry of Commerce and Industry), Ministry of Power, Ministry of Environment and Forest, Ministry of Railways, Chairman-cum-Managing-Director of the coal company of the command area where a coal block is located and Chief Secretaries of the State Governments concerned. The Screening Committee is an Inter-Ministerial and Inter-Governmental Committee. It follows a process of consultation and deliberation in its functioning. Allocation of blocks under the captive mining dispensation has been based on the assessed merits of individual cases through Inter-ministerial and Inter-Governmental consultations, both outside and within the forum of Screening Committee.

Under the procedure, applications received for allocation of coal blocks are forwarded to the administrative Ministries concerned

who, *inter-alia*, scrutinize the track record of applicant company, techno-economic viability of the project, state of project preparedness and assessment of coal requirement in terms of quality and quantity etc., and make their recommendations to the Screening Committee. The Central Mines Planning & Design Institute Limited (CMPDIL)/CIL scrutinize the recommended applications from the point of qualitative and quantitative matching of the projected coal requirement with that available in the sought block, and other associated matters and make recommendations to the Screening Committee.

The Screening Committee, with the benefit of these recommendations, and after giving an opportunity to the applicant to present his case, decides each case on its relative merits. The Screening Committee also reviews the progress made by various allocatees in developing the captive coal mines and installing the associated end use projects.

The Coal Mines Nationalisation Act, 1973 (26 of 1973), allows private companies engaged in generation of power, production of iron and steel, washing of coal obtained from mines and such other end-uses as may be specified by the Central Government by notification to carry on coal mining for their captive end-use.

In order to allocate coal blocks to private companies for captive mining of coal, a Screening Committee was set up in the Ministry of Coal through an administrative order, to consider applications made by various companies. The Screening Committee is an Inter-Ministerial and Inter-Governmental body, having representatives from various administrative Ministries/Departments/ concerned of the Central Government, the State Governments where the coal blocks are located, and coal companies, etc.

While efforts are on hand to continuously add blocks to the captive list, it was also expected that the demand for blocks would

remain far ahead of supply. Therefore, a necessity has arisen to bring in a process of selection that is not only objective but also transparent. Auction through competitive bidding for allocation of coal blocks to private companies is one such acceptable selection process. While the Coal Mines Nationalisation Act, 1973, besides providing for nationalization and associated provisions, specifies who can and who cannot undertake coal mining in India, the entities permitted to carry on coal mining under the said Act follow the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and the rules made thereunder, for acquiring minerals rights, mining lease and other matters related to mineral administration. Hence, selection process by auction through competitive bidding for allocation of coal blocks to private companies is sought to be introduced through an amendment in the Mines and Minerals (Development and Regulation) Act, 1957.”

Clause 2 of The Mines and Minerals (Development and Regulation) Amendment Bill, 2008

1.3 In the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the Principal Act), After section 11, the following section is proposed to be inserted, namely:—

“11A. The Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of an area containing coal and lignite, select, through auction by competitive bidding on such terms and conditions as may be prescribed, a company engaged in,-

- (i) production of iron and steel;
- (ii) generation of power;
- (iii) washing of coal obtained from a mine; or
- (iv) such other end use as the Central Government may, by notification in the Official Gazette, specify, and the State Government shall grant such reconnaissance permit, prospect-

ing licence or mining lease in respect of coal and lignite to such company as selected through auction by competitive bidding under this section:

Provided that the auction by competitive bidding shall not be applicable to an area containing coal or lignite,-

- (a) where such area is considered for allocation to a Government company or corporation for mining or such other specified end use;
- (b) where such area is considered for allocation to a company or corporation that has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects).

Company - for the purposes of this section, "Company" means a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act.

Ultra Mega Power Project (UMPP) - a power project of approximately 4000 MW capacity so designated by the Ministry of Power.

Power project awarded on tariff based competitive bidding – A power project to be awarded on the basis of competitive bidding for power tariff so designated by the Ministry of Power.

Explanation – For the purposes of this section "company" means a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act.

In Section 13 of the principal Act, in sub-section (2) after clause (c), the following clause shall be inserted, namely:-

"(d) the terms and condition of auction by competitive bidding for selection of the company under section 11A;"

1.4 The Committee sought the views of the Ministry of Coal as to what were the views of each of the State Governments and Industry Associations on the said Bill and the decision taken by the Ministry. The Ministry have informed the Committee as under:—

“The Bill was not circulated to the State Governments or Industry Associations. However, when the proposal was mooted by the Ministry of Coal, a meeting was held under the Chairmanship of Secretary(Coal) on the 28th June, 2004 with some of the applicants, representatives of industrial associations concerned, other stake holders and the representatives of the Ministries/ Departments concerned of the Central Government. While allocation through competitive bidding as a transparent and objective process for selection appeared acceptable in principle, reservations were expressed by some. The gist of the views/ comments of the Industry representatives/Associations along with the views of the Ministry of Coal could be summarized as below;

Comments of stake holders	Observation of Ministry of Coal
1	2
(i) It will add to the cost of coal and will lead to increased price of end products	(i) Coal mining is a capital-intensive activity. It needs substantial investments. Competitive bidding is likely to add only a small percentage to that cost. Since alternative to captive mining is to either purchase coal from Coal India Ltd. (CIL) or import it, informed and rational bidding would ensure that the cost of coal through the competitive bidding route is less than that of coal

1	2
(ii) There will be discrimination between the existing allocatees and the future allocatees.	sourced from other alternative sources. As such, there would be a minimal impact of the bid amount on the price of the end product. The bidding system will only tap part of the profit for public purposes.
(iii) There will be discrimination between the future allocatees and CIL/SCCL, who will continue to have blocks without the associated cost of competitive bidding.	(ii) Argument about discrimination between new and existing allocatees is not a sound one. Any change in policy that is considered in public interest can be made only prospectively and cannot be found fault with on the ground that beneficiaries of earlier policy had greater advantage.
	(iii) Similarly, the argument of discrimination between future allocatees and CIL/SCCL is also not tenable. CIL and SCCL carry huge costs of social overheads and excessive manpower which cannot be reduced in short-term for socio-political reasons. CIL and SCCL, therefore, can not be compared with new allocatees who will not be compared with new

1	2
<p>(iv) The three permitted sectors for captive mining cannot be treated equally. While steel and cement sectors produce commodities, power sector is a utility and operates in a regulated environment. The power sector, therefore, cannot pay a higher price than the steel and the cement sector can afford to. Further, they differ in their scales of investment and priority in the economy. Viewed in this context, competitive bidding would lead to a sectoral imbalance.</p>	<p>allocates who will not be subjected to these costs. Besides, CIL and SCCL address the national concerns of energy security while the private captive blocks would be available to the allocatees for their own express needs alone.</p>
<p>(v) Steel, cement and sponge iron need higher grades of coal with some specific</p>	<p>(iv) Argument that the three permitted sectors for captive mining cannot be treated equally is also fallacious. For efficient allocation of resources, inter-se priority has to be decided not on subjective considerations but on objective parameters. No one will quote a price in open bidding that will make coal so mined more expensive than the CIL coal or imported coal. As long as power utilities can get coal through captive mining at price lesser than that charged by CIL, they should have no objection to an open bidding system.</p> <p>(v) It is true that steel, cement and sponge iron need superior quality of coal as</p>

1	2
<p>properties, whereas power sector can use any kind of coal. Use of higher grade coal for power sector through competitive bidding will lead to sub-optimal use of higher grade coal.</p>	<p>compared to coal required for power generation. However, sectors of industry which need superior grades of coal should also be willing to pay higher prices for better quality. In any case, price should be the best determinant of the most efficient allocation of coal resources.</p>
<p>(vi) The techno economic feasibility and viability of those projects that were planned on the basis of existing procedure and have since progressed substantially will be adversely affected in case of change in the selection process midstream.</p>	<p>(vi) As regards techno-economic feasibility and viability for those who have already planned their projects, no commitments for allocation of blocks were made to any applicant. Uncertainty about availability of coal blocks remains the same irrespective of whether the block is allocated through Screening Committee process or through a bidding process.</p>
<p>(vii) Competitive bidding should be based on technical and physical parameters and not on financial parameters.</p>	<p>(vii) Any competitive bidding based on technical and physical parameters alone and not on financial parameters would be that much less objective and transparent and would not serve the purpose sought to be achieved.</p>

1.5 The Ministry have further stated that the views of the coal/lignite producing States were also asked separately on the proposed policy shift. The comments of the governments of Chhattisgarh, West Bengal and Rajasthan were received. The comments from the State Governments of Assam, Jharkhand, Maharashtra, Orissa and Tamil Nadu have not been received.

1.6 According to the Ministry, the views conveyed by some of the State Governments were to the effect that there would be increase in the cost of coal; the pipeline new projects will become unviable; would be detrimental to inland States like Chhattisgarh as it would shift the industry to rich coastal States. The Screening Committee process should be continued and made more transparent by bringing in financial and technical criteria; the prerogative of the State Government in the selection of a lessee will get diluted, if competitive bidding is introduced; State Government should have the liberty to evolve policy to lease lignite blocks only to those who are willing to set up power plants in their States (Rajasthan); allocation of lignite blocks through competitive bidding would place the State Government at a disadvantage while negotiating other terms and conditions with the power project developers; the present system is preferable on the grounds that it provides for both subjective and objective assessment; it gives priority to power generation; it takes into account the views of the State Government and its efforts for industrial development; and provides for decentralization of industries in the State, while on other hand, the competitive bidding would be based solely on higher prices offered, treats all sectors equally and would render views of the Government redundant.

1.7 The aforesaid views of the stakeholders were stated to have been considered by the Ministry and the response thereto is as under:—

“Rational bidding is unlikely to increase the cost of coal when compared to notified price of CIL. Location of industry is not

determined solely by availability of coal. Various other parameters such as other inputs, markets, basic infrastructure etc. play an equally important role. The continuance of the present process of allocation does not guarantee allocation of captive blocks to any applicant who has applied after 28.06.2004. The Techno-economic viability of project is never assessed on the presumption of captive source of coal but on the market price of coal. Therefore, the assumption that projects would become unviable due to change in the selection process appears devoid of merit. Introduction of competitive bidding would in no way change the "prerogative situation" *vis-à-vis* the existing Screening Committee route. Allocation of lignite blocks and award of power projects could be done in a planned and coordinated manner between the State Government and the Central Government. It may not be desirable to make an exception in the competitive bidding process in relation to lignite as no intelligible differentia is apparent on the face of it. The power companies in the public sector will have access to captive coal mining blocks through government company dispensation without necessarily participating in the competitive bidding. Competition among sectors would result in more efficient selection and utilization of scarce resource such as coal or lignite. Coal and lignite as a resource belong to the entire country and cannot be allowed to be used for the development of only the producing States. Market dynamics should determine the allocation of these precious resources within the country."

1.8 As regards including the physical parameters for the proposed competitive bidding, the Ministry have furnished the following information:—

"Competitive bidding is proposed to be in two parts: (i) technical bid and (ii) commercial bid. The technical bid would be qualifying in nature. It would essentially seek information about the

credentials and capabilities of the bidder with respect of end use project and coal mine development project etc. The end use-cum-mining project may need to be appraised by a reputed financial institution. Those who qualify in the technical part would be short-listed and commercial bids of only such applicants would be considered further.

The commercial bid would ask the applicant to indicate a lump sum amount that he is willing to offer to the Government, in cash. The bid with highest value would be declared successful.

Any competitive bidding based on technical and physical parameters and not on financial parameters would be that much less objective and transparent and would not serve the purpose sought to be achieved.

The objections raised by the State Governments have already been addressed in para 1.2 above and the interests of State Governments are taken care in the following manner:—

- (a) It is proposed that in the bidding process, preference may be given to a company which proposes to set up the end-use industry in the State in which the coal block is located, if its bid is within 5% of the highest bid for the said block and the company is willing to match the highest bid.
- (b) There is a strong feeling in the coal bearing areas that coal mining activity results in serious damage to the social and economic life of coal residents in that area. Mining activity also leads to degradation of environment in spite of safeguards mandated by Law. The royalty that State Government receives on coal mining is credited to the general revenues of that State and does not result in any specific benefit to the local community. For the reasons aforesaid, it is observed that mining activity gets delayed

because of resistance from local inhabitants. Therefore, it is proposed that the receipts generated by competitive bidding should accrue to the State Government where the coal block is located.”

1.9 The Ministry of Coal in their written reply have stated that the Bill was not circulated to the State Governments or Industry Associations. However, when the proposal was mooted by the Ministry of Coal, a meeting was held under the Chairmanship of Secretary (Coal) on the 28th June, 2004 with some of the applicants, representatives of industrial associations concerned, other stakeholders and the representatives of the Ministries/Departments concerned of the Central Government.

1.10 On being asked as to why the Ministry of Coal obtained fresh comments of the stakeholders, State Governments and the Ministries/Departments of Central Government as the Ministry held discussions with them way back in 2004, the Ministry in their reply have stated:—

“In order to know the views of the concerned industries to the proposed change and other related issues the meeting of some of the applicants, representatives of the industry associations, other stakeholders and the representative of Ministries/Departments was held under the Chairmanship of Secretary (Coal) on 24th June, 2004. Further, in a meeting chaired by the Principal Secretary to PM on 25.07.2005, the proposal firmed up by the Ministry on the basis of previous round of meeting with the stakeholders was further discussed, where the representatives of the concerned State Governments were also invited. Based on this feedback, the Ministry had finalised the proposal for amendment. Thus, comprehensive consultations were held with the stakeholders and the State Governments. This is a very time consuming process, and a fresh round of consultations would again cause considerable delay in carrying the process forward.”

1.11 In reply to a query, the Ministry have informed that the Coal mining is a capital-intensive activity. It needs substantial investments. Competitive bidding is likely to add only a small percentage to that cost. Since alternative to captive mining is to either purchase coal from CIL or import it, informed and rational bidding would ensure that the cost of coal through the competitive bidding route is less than that of coal sourced from other alternative sources. As such, there is likely to be only a marginal impact of premium (bid amount) on the overall cost of production or price of the end product (coal). The bidding system will only tap part of the profit for public purposes.

1.12 The Ministry have informed the Committee that the parameters regarding size of power projects or steel projects would need to be determined having regard to the type and extent of reserves available in a particular coal/lignite block and its ability to sustain the project for a specified period of time (life term of the end use project). These shall have to be finalized in consultation with the Ministry of Power and the Ministry of Steel in each case based on the resource position in the block.

1.13 On being asked about the time-frame set for grant of RP, PL or ML and whether it is binding on the parts of Central and State Governments, the Ministry in their written reply have stated as under:—

“No such time-frame is set out in the MMDR Act at present. However, in order to ensure expeditious development of the coal blocks, at the time of allocation of a coal block, a time-frame is stipulated with milestones for achieving different activities involved in developing the mine. An open cast mine is required to be developed within 36 months (42 months if forest land is involved) and an underground mine within 48 months (54 months if forest land is involved). As per the present guidelines, coal production from a captive coal block should commence within

36 months (42 months in case the area falls in forest land) in case of an open cast mine and in 48 months (54 months in case the area falls in forest land) in case of an underground mine, from the date of allocation. If the coal block is not explored in detail, additional two years are allowed for detailed exploration and preparation of geological report. However, once the competitive bidding system is introduced, these may change. When the modalities are evolved, time-frame within which a coal block is proposed to be developed could also be included as one of the parameters, for which certain weightage may be assigned for the purposes of evaluation.”

1.14 The Ministry have further stated that the proposed amendment is brought among other things, for the following reasons:—

- (a) Number of coal blocks available for allocation declining;
- (b) Number of applications per block increasing;
- (c) Present selection process cumbersome, difficult and vulnerable to criticism; and
- (d) Need for greater transparency and objectivity.

1.15 In this regard, the Ministry have explained as below:—

“Constant efforts were made to improve the system of allocation of coal/ lignite blocks. The lists of coal blocks identified from time to time for allocation were placed on the website of the Ministry. The system of offering identified coal/lignite blocks through a public advertisement published in the major national and regional newspapers as well as on the Ministry’s website was introduced. The guidelines for allocation of blocks were reviewed, modified, rationalised and amplified after each round of allocation based on the experience gained. However, it was found that the element of subjectivity could not be eliminated entirely under the different mechanisms adopted so far. Only a process of competitive bidding

can possibly provide a completely rational and objective system of evaluation. Hence the proposed amendment.”

1.16 In regard to a specific query on forfeiture of upfront payment, why the allocatee should not be strictly penalized by charging a fixed amount and banning them for certain period from participation of bidding, the Ministry stated that:—

“The block allocatees are also required to deposit a bank guarantee equal to one year’s royalty and if the block is not developed as per the agreed milestones, then a proportionate amount is liable to be deducted as per the delay in respect of each milestone. If the entire bank guarantee amount is forfeited, then the block is liable to be de-allocated. The suggestion about de-barring the party from participating in the future auctions for a specified period has been noted and would be considered when the modalities of auctioning are finalised.”

1.17 The Ministry have stated in their reply as under:—

“The processes of acquiring land, resettlement and rehabilitation, obtaining forest and environmental clearances etc. are quite time consuming because of multi-stage examinations involved. Coal and lignite blocks developments are monitored periodically. Penal action is taken where delay is found”.

1.18 To expedite the process of grant of prospecting licence, it has been decided by the Ministry to convey the prior approval of the Central Government at the time of allocation of block itself. This would reduce the time lost in obtaining the prior approval quite significantly.

1.19 The Ministry of Coal have also been pursuing with the other Ministries/State Governments concerned to streamline the processes of land acquisition, and grant of statutory clearances. Through closer monitoring and better coordination with the State Governments, the situation would be improved further.

1.20 Regarding what action would be taken if the winner in the bidding process is unable to develop the block due to problems of land acquisition, lack of adequate coordination and cooperation of the State Governments and demands compensation for non-materialization of his projects due to the above-said problems, the Ministry in their written reply have stated as under:—

“The statutory obligations and the problems associated with the development of blocks would be known to the prospective bidders and would be common to all. The prospective bidder for a block shall have to bid for the coal resources knowing fully well the associated problems and risks. Hence, there is no question of compensation for non-materialization of project due to any problems faced by the bidder.

Development of mines would involve significant capital investment and would generate lot of economic activity within the State. This would mean greater employment opportunities, higher investment in infrastructure development, higher revenue generation and would provide impetus to overall economic development of the region. Therefore, the States would have a stake in encouraging optimal exploitation of mineral resources and facilitating early development of coal mines. The Ministry would also seek to establish better coordination with them for this purpose”.

1.21 About the bidding amount for various kinds of coal blocks would be finalised and authority who decides the amount, the Ministry in their written reply have stated as under:—

“For easy determination of value of different grades of coal, the notified price of coal as fixed by CIL and SCCL and the import price of coal would be available as benchmarks. On the basis of these prices, the Central Government shall be able to determine the floor price. Further, transparent bidding through the inter-play

of market forces should be the best method of discovering the right premium for the resource.”

1.22 As regards the steps being taken by the Ministry to prevent such malpractices in the proposed new system of allotment of coal blocks, the Ministry in their written reply have stated as below:-

“Coal blocks for commercial mining are allotted to a Government company or corporation only, as under the provisions of the CMN Act, 1973 only a Government company can carry on commercial mining of coal. A Government company/corporation, when allotted a coal block under this dispensation, can use the coal obtained from that block for commercial trading, without the restriction of captive consumption. In order to attract capital, technology and expertise, the allocatee Government company/corporation may chose to form a joint venture with private partners to develop the block. However, the requirement or condition remains that the joint venture so formed shall have to retain the character of a Government company as defined under the Companies Act, 1956. As long as the statutory requirements are satisfied by the allocatee, the Government cannot prohibit what is permitted by law.”

1.23 The Ministry have further informed the Committee that the Ministry will be responsible for conducting the auction through competitive bidding. If it becomes necessary to engage consultants to assist the Ministry, they would be selected through a transparent and open system.

1.24 While explaining the background for bringing “The Mines and Minerals (Development and Regulation) Amendment Bill, 2008”, the Ministry of Coal have stated that with the progressive allocation of coal blocks, the number of coal blocks available for allocation is declining while the number of applicants

per block is increasing, as the demand for coal keeps increasing. This has made selection of an applicant in respect of a block difficult and vulnerable to criticism on the ground of lack of transparency and objectivity. While efforts are on continuously to add blocks to the captive list, it was also expected that the demand for blocks would remain far ahead of supply. Therefore, a necessity has arisen to bring in a process of selection that is not only objective but also transparent. Auction through competitive bidding for allocation of coal blocks to private companies according to the Ministry, is one such acceptable selection process.

The Committee feel that it would have been appropriate if the Ministry of Coal had brought out a comprehensive White Paper giving details of the coal reserves available, the minable coal, coal blocks allotted so far with the present status, reasons for the delay in the development of such blocks along with contingency plan to develop them in a time bound manner so as to achieve the envisaged coal production target before starting the process of auction of such blocks.

1.25 The Ministry are stated to have sought the views of the concerned stakeholders and the State Governments where the coal/lignite resources are located. While the comments from the State Governments of Chhattisgarh, Rajasthan and West Bengal were received by them, the comments from other coal bearing States viz. Assam, Jharkhand, Maharashtra, Orissa and Tamil Nadu were not received. The States have expressed apprehension that allocation of coal blocks through competitive bidding would add to the cost of coal and would be discriminatory between existing allottees and the future allottees. According to them the competitive bidding should be based on technical and physical parameters and not on financial parameters. It was also suggested by the State Governments that incentives should be given to encourage value-addition within the State where coal resources are located.

The Committee firmly believe that since States are the owner of the scarce mineral resources, the consultation with them and consideration of their suggestions is absolutely necessary before switching over to new policy regime. The Committee, therefore, would like the Ministry to suitably address the grievances of State Governments and stakeholders by convening immediately a meeting with all of them before going ahead with the proposed legislation so as to safeguard their interest.

1.26 The Committee are of the firm opinion that if the coal block already allotted are not developed as per the time-frame set by the Ministry, their allocation should be automatically stand de-allocated and such coal blocks may be disposed off through new policy initiative now being contemplated. After this exercise is completed, only then new blocks may be allotted through competitive bidding.

1.27 After careful consideration of the written information furnished to the Committee as well as the oral evidence tendered by the representatives of the Ministries of Coal and Mines before them, the Committee are of the considered view that if at all it is essential to bring the proposed Amendment Bill, the Government ought to take following measures before taking legislative route for the Amendment Bill:—

- (i) Every coal block is different in terms of geological formation, coal reserves, quality and quantity of coal, available infrastructure, method of mining, surface features, environmental and local considerations. As such, each coal block will have different financial value. In order to assess the correct value of a particular coal block, the Ministry of Coal should engage the services of a reputed Consultant besides the services of CMPDIL (Central Mine, Planning and Design Institute Limited) for the entire process of competitive bidding;**

- (ii) The feasibility study report, mine valuation and financial modelling needs to be done in advance for each coal block proposed to be auctioned;**
- (iii) The process of selection of coal block through auction should be documented in detail and deliberated before hand to avoid any ambiguity and manipulation during implementation;**
- (iv) The coal blocks in reserve forests/protected forests should not be allotted to save forest environment and local population;**
- (v) Coal blocks should be categorised in three categories viz. good, moderate and reasonable based on quantity and quality of coal, mining cost, available infrastructure, environmental considerations and human environment before auctioning;**
- (vi) The technical and financial criterion for competitive bidding should be finalised realistically;**
- (vii) Before allotting coal block to a particular end user, its exact requirement for coal should be determined prior to allotment *vis-a-vis* its planned future projection;**
- (viii) The land use map needs to be clearly defined so as to avoid allotment of coal bearing land for establishment of any other industry;**
- (ix) The reasons for delay in commencing coal production from coal blocks should be adequately addressed so that schedule for development and coal production is timely achieved;**
- (x) The process of Resettlement and Rehabilitation for project affected people should be clearly defined in document of auction including financial packages and**

employment opportunities and implementation schedule thereof;

- (xi) Detailed community welfare and peripheral development for the affected people should be included in the document of auction with financial provisions; and**
- (xii) Special Local Coal Area Development Authority should be set up to regulate the development and welfare of the community.**

NEW DELHI;
18 February, 2009

29 Magha, 1930 (Saka)

DR. SATYANARAYAN JATIYA,
Chairman,
Standing Committee on Coal and Steel.

ANNEXURE I

MINUTES OF THE SITTING OF THE STANDING COMMITTEE
ON COAL AND STEEL (2008-09) HELD ON 05.12.2008 IN
COMMITTEE ROOM 'C', PARLIAMENT HOUSE
ANNEXE, NEW DELHI

The Committee met from 1530 hours to 1720 hours.

PRESENT

Dr. Satyanarayan Jatiya — *Chairman*

MEMBERS

2. Shri Hansraj G. Ahir
3. Shri Chandrakant B. Khaire
4. Shri Faggan Singh Kulaste
5. Shri Dalpat Singh Paraste
6. Shri Raghuraj Singh Shakya
7. Smt. Karuna Shukla
8. Shri Anirudh Prasad *alias* Sadhu Yadav
9. Shri Mohd. Ali Khan
10. Dr. T. Subbarami Reddy
11. Shri Jesudas Seelam
12. Shri Ali Anwar Ansari

SECRETARIAT

1. Shri Ashok Sarin — *Joint Secretary*
2. Shri Shiv Singh — *Deputy Secretary*

LIST OF WITNESSES

Ministry of Coal

1. Shri C. Balakrishnan, Secretary
2. Shri K.S. Kropha, Joint Secretary
3. Shri P.R. Mandal, Adviser
4. Shri K.C. Samria, Director

Ministry of Mines

1. Shri Shantanu Consul, Secretary
2. Smt. A.B. Pande, Joint Secretary
3. Shri G. Srinivas, Director

2. At the outset, Chairman, welcomed the Members to the sitting of the Committee. The Committee then took up first agenda regarding consideration and adoption of the following draft Action Taken Reports:—

- | | | | | | |
|-------|----|----|----|----|----|
| (i) | ** | ** | ** | ** | ** |
| (ii) | ** | ** | ** | ** | ** |
| (iii) | ** | ** | ** | ** | ** |
| 3. | ** | ** | ** | ** | ** |

4. Thereafter, the Committee took up the second agenda regarding briefing by the Ministries of Coal and Mines on “The Mines and Minerals (Development and Regulation) Amendment Bill, 2008” as introduced in Rajya Sabha on 17.10.2008 and referred to the Committee for examination and report. The Chairman welcomed the representatives of Ministries of Coal and Mines. The Secretary, Ministry of Coal made a visual presentation on the subject followed by

**Does not pertain to this Report.

briefing. Then, the Secretary, Ministry of Mines briefed the Committee on the subject. The following points were emerged during the discussion:—

- (i) Necessity of bringing out the proposed amendment in The Mines and Minerals (Development and Regulation) (MMDR) Act, 1957;
- (ii) Objections to the proposed amendment made by the stakeholders and replies of the Ministries of Coal and Mines;
- (iii) Considerations of physical parameters (in addition to technical and financial parameters as proposed) in the process of competitive bidding;
- (iv) Possibilities of retrenchment in employment in Coal India Ltd.(CIL) and its subsidiaries;
- (v) Re-look into the coal blocks allotted during the period when proposed amendment bill was in process; and
- (vi) Any other amendments likely to bring into the MMDR Act, 1957 in the near future.

5. A copy of the verbatim proceedings of the sitting of the Committee has been kept for record.

The Committee then adjourned.

ANNEXURE II

MINUTES OF THE SITTING OF THE STANDING COMMITTEE
ON COAL AND STEEL HELD ON 20th JANUARY, 2009 IN
COMMITTEE ROOM NO. '139', PARLIAMENT HOUSE
ANNEXE, NEW DELHI.

The Committee sat from 1600 hours to 1645 hours.

PRESENT

Dr. Satyanarayan Jatiya — *Chairman*

MEMBERS

2. Shri Hansraj G. Ahir
3. Shri Chandra Shekhar Dubey
4. Shri Chandrakant B. Khaire
5. Shri Raghuraj Singh Shakya
6. Shri Anirudh Prasad *alias* Sadhu Yadav
7. Shri Mohd. Ali Khan
8. Dr. T. Subbarami Reddy
9. Shri Jai Prakash Narayan Singh
10. Shri Ali Anwar Ansari
11. Shri R.C. Singh

SECRETARIAT

1. Shri Ashok Sarin — *Joint Secretary*
2. Shri A.S. Chera — *Director*
3. Shri Shiv Singh — *Deputy Secretary*

2. At the outset, the Chairman, welcomed the Members to the sitting of the Committee and apprised them that "The Mines and Minerals (Development and Regulation) Amendment Bill, 2008" has been referred by the Hon'ble Speaker on 31st October, 2008 to the Committee for examination and report within three months. The

Chairman stated that the Committee had heard the representatives of the Ministries of Coal and Mines on the various aspect of the Bill and invited the Hon'ble Members to offer their suggestions for inclusion in the Draft Report on Bill. After some deliberation, the following issues were raised by the Hon'ble Members:—

- (i) Allotment of captive coal blocks and their status;
- (ii) Competitive biddings for coal blocks;
- (iii) Parameters for competitive bidding of coal block;
- (iv) Need for new technology for underground coal mining;
- (v) Feasibility for land use map for coal bearing areas; and
- (vi) Assessment of coal reserves and their correct values earmarked for competitive biddings;

3. The Committee then decided to seek more clarifications on the Bill from the concerned Ministries on the aforesaid points so that the Committee could arrive at proper and just conclusions before finalizing the Draft Report.

4. The Committee also assured the Chairman to seek extension of time from the Hon'ble Speaker upto the last day of next session for presenting this Report on the Bill to Parliament.

The Committee then adjourned.

ANNEXURE III

MINUTES OF THE SITTING OF THE STANDING COMMITTEE
ON COAL AND STEEL HELD ON 10TH FEBRUARY, 2009 IN
COMMITTEE ROOM 'C', PARLIAMENT HOUSE ANNEXE,
NEW DELHI

The Committee sat from 1500 hours to 1630 hours to consider and adopt the draft Report on "The Mines and Minerals (Development and Regulation) Amendment Bill, 2008".

PRESENT

Dr. Satyanarayan Jatiya — *Chairman*

MEMBERS

2. Shri Hansraj G. Ahir
3. Shri Bansagopal Choudhary
4. Shri Chandra Shekhar Dubey
5. Shri Chandrakant B. Khaire
6. Shri Dalpat Singh Paraste
7. Smt. Ranjeet Ranjan
8. Shri Mohd. Ali Khan
9. Shri Ali Anwar Ansari
10. Shri T.K. Rangarajan
11. Dr. T. Subbarami Reddy
12. Shri R.C. Singh *alias* Ram Chandra Singh

SECRETARIAT

1. Shri A.S. Chera — *Director*
2. Shri Shiv Singh — *Deputy Secretary*

2. At the outset, the Hon'ble Chairman welcomed the Members of the Committee.

3. The Committee then took up for consideration draft Report on "The Mines and Minerals (Development and Regulation) Amendment Bill, 2008.

4. Most of the Members of the Committee pointed out that the Ministry of Coal had invited comments from the State Governments on the proposed Amendment Bill. While the views of the State Government of Chhattisgarh, West Bengal and Rajasthan were received, the comments from the State Governments of Assam, Jharkhand, Maharashtra, Orissa and Tamil Nadu have not been received. The Committee, therefore, decided that it might not be appropriate to finalize the Draft Report as their suggestions/views apparently had not been taken into consideration by the Ministry before finalizing the details of the Legislative Proposal. The Committee authorised the Hon'ble Chairman to request Hon'ble Speaker to grant extension of time for finalization and presentation of Report to Parliament on the Amendment Bill to enable the Committee to hear the views/comments of the concerned State Governments. The Committee, therefore, decided to defer the consideration of the draft Report on the Bill.

The Committee then adjourned.

ANNEXURE IV

MINUTES OF THE SITTING OF THE STANDING COMMITTEE
ON COAL AND STEEL HELD ON 17TH FEBRUARY, 2009 IN
COMMITTEE ROOM 'E', PARLIAMENT HOUSE ANNEXE,
NEW DELHI

The Committee sat from 1500 hours to 1710 hours

PRESENT

Dr. Satyanarayan Jatiya — *Chairman*

MEMBERS

2. Shri Hansraj G. Ahir
3. Shri Bansagopal Choudhary
4. Shri Chandra Shekhar Dubey
5. Shri Dalpat Singh Paraste
6. Smt. Ranjeet Ranjan
7. Shri Rewati Raman Singh
8. Shri Sugrib Singh
9. Shri Mohd. Ali Khan
10. Dr. T. Subbarami Reddy
11. Shri Jai Prakash Narayan Singh
12. Shri Ali Anwar Ansari
13. Shri T.K. Rangarajan
14. Shri R.C. Singh *alias* Ram Chandra Singh

SECRETARIAT

1. Shri Ashok Sarin — *Joint Secretary*
2. Shri A.S.Chera — *Director*
3. Shri Shiv Singh — *Deputy Secretary*

LIST OF WITNESSES

Ministry of Coal

1. Shri C. Balakrishnan, Secretary
2. Shri K.S. Kropcha, Joint Secretary
3. Shri K.C. Samria, Director

Ministry of Mines

1. Shri Shantanu Consul, Secretary
2. Ms. A.B. Pande, Joint Secretary

2. At the outset, the Hon'ble Chairman welcomed the Members of the Committee. The Chairman informed the Members that the sitting of the Committee has been convened to hear from the representatives of the Ministries of Coal and Mines whether the comments of the States on "The Mines and Minerals (Development and Regulation) Amendment Bill, 2008" have been received by them and what action has been to be taken thereon. He also requested the Members to seek clarifications from the representatives of the Ministries so that the Committee could finalise the Report as Hon'ble Speaker has granted extension of time only upto 23rd February, 2009 to present the Report to Parliament.

3. The Committee then took oral evidence of the representatives of the Ministries of Coal and Mines. The Secretaries, Ministry of Coal and Ministry of Mines briefed the Committee on the Bill explained to the various queries raised by the Members.

The witnesses then withdrew.

4. The Committee, thereafter, took up for consideration the Draft Report of the Committee on "The Mines and Minerals (Development and Regulation) Amendment Bill, 2008" and adopted the same with some modifications.

5. The Committee authorised the Chairman to finalise the Report after making consequential changes arising out of factual verifications by the concerned Ministries and to present the Report to Parliament during the current session.

6. A copy of the verbatim proceedings of the sitting of the Committee has been kept for record.

The Committee then adjourned.

APPENDIX

AS INTRODUCED IN THE RAJYA SABHA

Bill No. XXXIX of 2008

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) AMENDMENT BILL, 2008

A

BILL

*further to amend the Mines and Minerals (Development and Regulation)
Act, 1957*

BE it enacted by Parliament in the Fifty-ninth
Year of the Republic of India as follows:—

1. (1) This Act may be called the Mines and Minerals (Development and Regulation) Amendment Act, 2008. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

67 of 1957. 2. In the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the principal Act), after section 11, the following section shall be inserted, namely:— Insertion of new section 11A.

'11A. The Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of an area containing coal and lignite, select, through auction by competitive bidding on such terms and conditions as may be prescribed, a company engaged in,— Procedure in respect of coal and lignite.

(i) production of iron and steel;

(ii) generation of power;

(iii) washing of coal obtained from a mine;

or

(iv) such other end use the Central Government may, by notification in the Official Gazette, specify,

and the State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of coal and lignite to such company as selected through auction by competitive bidding under this section:

Provided that the auction by competitive bidding shall not be applicable to an area containing coal or lignite,—

(a) where such area is considered for allocation to a Government company or corporation for mining or such other specified end use;

(b) where such area is considered for allocation to a company or corporation that has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects).

Explanation.—For the purposes of this section “company” means a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that act. 1 of 1956.

A m e n d -
ment of
section 13.

3. In section 13 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

“(d) the terms and conditions of auction by competitive bidding for selection of the company under section 11A,”.

STATEMENT OF OBJECTS AND REASONS

The Coal Mines Nationalisation Act, 1973 (26 of 1973), allows private companies engaged in generation of power, production of iron and steel, washing of coal obtained from mines and such other end-uses as may be specified by the Central Government by notification, to carry on coal mining for their captive end-use

2. In order to allocate coal blocks to private companies for captive mining of coal, a Screening Committee was set up in the Ministry of Coal through an administrative order, to consider applications made by various companies. The Screening Committee is an Inter-Ministerial and Inter-Governmental body, having representatives from various administrative Ministries/Departments concerned of the Central Government, the State Governments where the coal blocks are located, and coal companies, etc.

3. With the progressive allocation of coal blocks, the number of coal blocks available for allocation is declining while the number of applicants per block is increasing, as the demand for coal keeps increasing. This has made selection of an applicant in respect of a block difficult and vulnerable to criticism on the ground of lack of transparency and objectivity.

4. While efforts are on hand to continuously add blocks to the captive list, it was also expected that the demand for blocks would remain far ahead of supply. Therefore, a necessity has arisen to bring in a process of selection that is not only objective but also transparent. Auction through competitive bidding for allocation of coal blocks to private companies is one such acceptable selection process. While the Coal Mines Nationalisation Act, 1973, besides providing for nationalisation and associated provisions, specifies who can and who cannot undertake coal mining in India, the entities permitted to carry on coal mining under the said Act follow the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and the rules made thereunder, for acquiring mineral rights, mining lease and other

matters related to mineral administration. Hence, selection process by auction through competitive bidding for allocation of coal blocks to private companies is sought to be introduced through an amendment in the Mines and Minerals (Development and Regulation) Act, 1957.

5. In the proposed arrangement, auction by competitive bidding shall not be applicable in respect of allocation of coal blocks to Government company or a Central or State Public Sector Undertaking. Further, competitive bidding shall not be applicable for allocation of coal blocks to a company or corporation that has been awarded a power project on the basis of competitive bids for tariffs, including Ultra Mega Power Projects.

6. The Bill seeks to achieve the above objects.

NEW DELHI;

The 25th March, 2008.

SIS RAM OLA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill proposes to insert a new section 11A in the Mine and Minerals (Development and Regulation) Act, 1957. The said clause seeks to empower the Central Government to prescribe the terms and conditions for the selection of a company through competitive bidding in respect of an area containing coal and lignite. Clause 3 enables the Central Government to make rules for the purposes covered by the aforesaid new provision.

2. The matters in respect of which the said rules may be made are essentially matters of detail or procedure. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACT FROM THE MINES AND MINERALS (REGULATION AND
DEVELOPMENT) ACT, 1957

(67 OF 1957

* * * * *

13. (1) * * * * *

(2) In particular, and without prejudice to the
generality of the foregoing powers, such rules may
provide for all or any of the following matters, namely:—

Power of
Central
Government
to make rules
in respect of
minerals.

* * * * *

RAJYA SABHA

A

BILL

further to amend the Mines and Minerals (Development and
Regulation) Act, 1957.

(Shri Sis Ram Ola, Minister of Mines)

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