

A. B. Vanavasi Kalyan Ashram
Resolution Passed in KKM Meeting
14th September, 2012- Mota Randha (D&NH)

Resolution No. 07.

MMDR Amendment Bill 2011

**Central Government's Retreat from 26% Profit Sharing a Betrayal with STs;
Adhere with Original Proposals for Inclusive Growth and Peace in Tribal Areas.**

Central Government is considering amendments and replacing Mines and Minerals (Development and Regulation Act (MMDR Act), 1957 since last three years. This process commenced in the year 2009 when Sri B. K. Haundiye was Union Minister for Mines after the National Mining Policy, 2008 (NMP) was resolved at the Center. A Group of Ministers (GoM) under the Chairmanship of the then Union Finance Minister Sri Pranab Mukharjee principally approved proposals of the Mines Ministry that all the mining units across the country would share its 26% of Profit After Tax (PAT) with the Project Affected Persons (PAPs) due to their mining activities. This proposal was approved by the GoM after long deliberations with all the stake holders and in line with the NMP 2008, Supreme Court of India's directions in its landmark judgment of Samatha V/s State of Andhra Pradesh, 1997 and similar practice prevailing across the world in mining sector.

This bold, historic and inclusive growth providing step of Govt. of India was hailed by one and all across the country including KKM of ABVKA except the Industrial and Mining Federations. Unfortunately the Planning Commission also came in rescue of them arguing that this idea of profit sharing would result into anti investment trends in mining sector and that mining will remain no longer viable in the country.

The country is witnessing unrest and hard resentments of the tribals and other rural population particularly in mining areas against mining activities and involuntary land acquisitions. Indiscriminate Land Acquisitions and poor Rehabilitation and Resettlement (R&R) Policy and inequitable distribution of wealth and prosperity generated out of mining were mainly responsible for this anger-resentment. Latest figures of displacements due to mining, mega irrigation and power projects and reserve forests resulted into displacement of about 25 million population in last six decades, Scheduled Tribes bear more than 50% of this figure as forests and mining map of India moves side-by-side of thickly tribal hebetated areas of the country. It is matter of sad to note that less than 25% of the displaced STs could be resettled, means thereby that more than 9.4 million STs have been made victims in the name of Development. In order to address and arrest insurgency, unrest and anti mining-anti development environment in the country particularly in the tribal area, compelled central government to review the draconian and imperial enactments still applicable in the country even after seven decades of independence. New NMP 2008, proposed National Land Acquisition and R&R (NLAR&R) Bill 2011, Forest Rights Act, 2006 and such other recent legislations are in way to make a healthy-development friendly environment in the country and provide for sustainable development, inclusive growth and equitable distribution of prosperity.

MMDR Amendment Bill 2010 was also one such step. The problem started with idea of profit sharing when Sri Dinasha Patel was given independent charge as State Minister in the Mines ministry in a Cabinet reshuffle at Centre replacing Sri Haundiye (a Cabinet Minister) on 19th January 2011. Though the MMDR Bill 2010 had been cleared, approved and sent by GoM to the Ministry of Law on 3rd January 2011 with a resolution to provide 26% of Profit after Tax to be shared by all major miners with PAPs of their mining area across the country. In the very first meeting of the GoM after Sri Patel took over as Mines Minister on 7th July, 2011, the Mines Ministry came with a new proposal that only Coal Mines will have to share 26% of their PATs with the PAPs, rest of the miners (engaged in other than Coal Mining) will have to bear an amount equivalent to Royalty which they pay to the state governments. This amount shall be deposited to the proposed District Mining Foundation (DMF) which shall onward be distributed by it to the PAPs in the district. An important point can be found if any body goes through the minutes of the GoM of the said date that the Mines Ministry did not give any reason why it has come with this fundamental change, nor this was discussed in the GoM. If this idea of profit sharing was not to be done, why the Gol has been showing sweet dreams to STs and other PAPs since last three years? And this is not the sole example of betrayal, we have been witnessing such retreats in NLAR&R Bill 2011 which is still pending in Parliament in a diluted form, Forest Rights Act where the provisions are not being implemented in its letter and spirit-Community Rights are being completely denied and STs-other traditional forest dwellers are being removed and displaced from Tiger Reserves and Hotels-Resorts are being protected in the name of Tiger-Tourism even in the Apex Court !

Considering all these facts, Kendriya Karyakari Mandal (KKM) of the A. B. Vanvasi Kalyan Ashram (ABVKA) wants to caution the central and state governments and the Industrial Federations that people are deeply observing these things and they can't remain silent spectators for a long time. Nor this is just and warranted that mining sector may continue to earn as huge profits as the Steel Industries have been earning since 2-3 years back when they were paying just Rs. 26/- per ton Royalty on iron ore and selling Steel @ Rs 6000 to 9000 per tone. This is also a matter of fact that this provision of sharing 26% of PAT would have provided 50 mining districts across the country- most of which are tribal dominated, sufficient financial resources for their area development as well as poverty elimination of PAPs if resolved in its original form. It could have provided funds tuning to Rs. 50,000 crores per year to the DMFs of these 50 districts. Even the 26% PAT share for Coal Miners and amount equivalent to Royalty paid to States for other Miners formula would have provided Rs.10,500 crores per year to the DMFs. More than 31 out of these 50 districts could have more than 100/- crores per year at its disposal for onward distribution among the PAPs and development of their area. This amount is SEVEN Times of the total budget of the Union Ministry of Tribal Affairs for the country for the year 2011-12.

The MMDR Amendment Bill 2011 was introduced in Lok Sabha on 12th December 2011 which was referred to the Standing Committee on Ministry of Coal and Steel of the House on 5th January, 2012. Though the Bill is still pending with the Committee, news are appearing in media that the Central Government, on proposal of the Coal Ministry, has agreed to bring the Coal Mining at par with other Minerals so far as Profit Sharing is concerned- means thereby that now the Coal Miners will also have to share with PAPs an amount equivalent to Royalty, and not the 26% of Profit After Tax as was the provision in the Draft Bill, 2011. The Media news further suggests that the rate of Royalty has been made **ad valorem** (value based) instead of fixed rate. This is a welcome step but shifting of 26% profit sharing with that of Royalty has **reduced the total funds to half**. If true, this is not only a shame on part of the Central Government but a CRUEL JOKE and betrayal with STs and other poor PAPs which they can not tolerate. This is clearly a deviation from the governments own resolution adopted in the NMP 2008 and thus illegitimate and clearly shows that the Indian State-the Union Government is not working for the People but for the Corporate Houses. KKM is sorry to state that It has only one consideration in its policy decisions – the Gross Domestic Produce (GDP), not the overall development of the country, not the inclusive growth and not the least bothered for equitable distribution of the wealth earned out of mining and industries. When country like Australia can provide for its miners to share 30% of their profits with PAPs, still this sector can contribute 7.5% in the National GDP of Australia; while Indian mining sector contributes just 2.3% in the NGDP. Similar are the cases of Canada, Papua New Guinea, USA, Norway and Botswana. If they could do why we can't do? The tribals and other people have lost their own lands, the forest lands over which they enjoy traditional rights-recognized now by law, these lands provide them livelihood, they have no other means for their two square meals. They will be displaced forcefully, deprived of their livelihood means and the miners will earn thousands of millions of rupees every year from their looted land! Is it inclusive growth, will it bring peace and tranquility in the mining area which is first necessity for any healthy and sustainable development?

Considering all these things, KKM of the ABVKA demands the union and all State Government to:

1. Provide for 26% Profit Sharing in the proposed MMDR Bill 2011, in all major minerals (including Coal) and Sectors to share with the PAPs their PAT to fulfill aspirations of NMP 2008, adhere with its own proposals in this regard approved by the GoM on the Bill and implement directions of the Apex Court given in the Samatha Case in 1997,
2. Companies and others engaged in Coal Mining for their own consumption of Coal as raw material (Captive Coal Block holders mining for Cement, Steel, Power Generation etc) should be explicitly brought under the scope of the Bill,
3. Royalty provisions in Coal, Iron Ore and other major minerals are being made **ad valorem** (value based) from FIXED rates in last 2-3 years. This should be applied to all other major and minor minerals across the country so that state exchequers and other stakeholders can also be benefited equally with the price rises,
4. Adequate provisions should be made in the MMDR Bill 2011 to assure membership of a reputed Voluntary Organization working in the area among the PAPs in all the District Mineral Foundation (DMFs) to make functioning of the DMFs more democratic, transparent; and strengthen the PAPs; and development schemes should be prepared in consultations with the PAPs.

5. An important task for identifying the PAPs is left on all the concerning State Governments which is good, wise and practicable decision. A provision should be made in the Bill and later in the Rules to be made their under later that elected Public Representatives; representatives from PRIs and reputed Voluntary Organizations of the area/working among the PAPs are adequately represented in the mechanism evolved for this task,
6. Provisions are made in the Bill for constitution of the National Mining Tribunal (NMT), its Circuit Benches, a State Mining Tribunal (SMTs) and Special Mining Courts (SMCs) at the District levels. The Bill should be adequately amended to provide that a sitting judge of the Apex Court is appointed as the Chairperson in the NMT, a sitting judge of the concerning High Court as Chairperson in all the SMTs and at least one SMC is established in every mineral/tribal dominated district of the country for convenience of the aggrieved persons,
7. A provision should be made in the Bill that all the miners will create a Reserve Fund (RF) of a certain percentage of its net profits annually (say 3 to 4%) which shall be used only after closure of the mine to assure that the land are returned to their original owners in a good-working-usable condition. This RF should be used solely for this purpose. The approval/signature of the District Magistrate should be made mandatory for use of this RF as we see that there is no single example across the country where it happened ideally.
8. A few raw minerals specially Iron Ore are being exported indiscriminately since last two decades or so for the sake of balancing the Foreign Trade and earn foreign currency. This is bound to prove fatal for the long term national interests. All of our natural resources should be explored and exported wisely and strategically keeping our future needs in mind particularly when the matter is related to our future/national security in the case of iron and steel. There seems to be dare need to check and regulate these indiscriminate exports of such strategic metals like Iron Ore or others. A longtime policy framework is required to prefer and assure that value addition units are established near the mining-tribal areas,
9. The profit sharing provisions of the Bill should be made applicable with Respective Effect as was made in the Forest Rights Act, 2006 or as is proposed in the NLAandR&R Bill 2011. The date of applicability may be the date applicability of NMP 2008 or any reasonable date of the year 2009 when the idea of Profit Sharing was first time evolved in the ministry of Mines. The displaced and other PAPs should not be left to bear for their no wrong if the enactment is not being passed and pending since last THREE long years. Moreover, the Bill should be made applicable to all mining units whether they commenced their activities before or after enactment of this Act.

The KKM of ABVKA further appeals the Miners, Industries and their Federations to see these steps in a positive way keeping broad global and domestic scenario in mind. These progressive legislations will definitely pay a greater dividend to them in long term when their co-citizens will be satisfied with the sweet fruits of mining, industries and other development works. Then they will willingly tender their land for this purpose if they are assured of inclusive growth and equitable distribution. Their land should be looked as their investment in this task of nation building and national development, let them be partners not the hurdles. The other provisions of CSR should also be looked into the same spirit.

KKM also calls upon all the concerned elected representatives, specially the ST MPs and MLAs to stand above the petty politics and party lines, build a genuine pressure on the Union Government and assure that their co ST brethren- ST Communities and other project affected persons are not denied their legitimate dues.

Janajati elders and youngsters will also have to come forward and initiate a mass contact programme with their elected MPs-MLAs of whosoever political party they may be, to impress upon them to pursue their political brasses in favour of this legislation.

All NGOs/Vol Organisations working for upliftment of the tribes and other rural population should organise, aware, educate and if need may be, legitimately agitate people so that this piece of historical legislation is adopted undiluted and earliest.

The Janajaties and other displaced persons also need full support of Media-print as well as electronic media who have played a vital role recently in unearthing the truth and voicing for the greater national interests. KKM also appeals them to please voice legitimate concerns of the tribes and other rural population in this regard.