

Bill No. XXXIX of 2008

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

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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.

5 (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.

10 '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;

15 (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, 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,— 5

(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). 10

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.

Amendment 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:— 15

“(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;

SIS RAM OLA.

The 25th March, 2008.

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)

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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:—

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

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

(Shri Sis Ram Ola, Minister of Mines)