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**STANDING COMMITTEE ON LABOUR
(2011-2012)**

FIFTEENTH LOK SABHA

MINISTRY OF LABOUR AND EMPLOYMENT

THE MINES (AMENDMENT) BILL, 2011

TWENTY-SECOND REPORT



LOK SABHA SECRETARIAT

NEW DELHI

December, 2011/Agrahayana, 1933 (Saka)

TWENTY-FIRST REPORT

**STANDING COMMITTEE ON LABOUR
(2011-2012)**

(FIFTEENTH LOK SABHA)

MINISTRY OF LABOUR AND EMPLOYMENT

THE MINES (AMENDMENT) BILL, 2011

Presented to Lok Sabha on 20th December, 2011

Laid in Rajya Sabha on 20th December, 2011



LOK SABHA SECRETARIAT

NEW DELHI

December, 2011/Agrahayana, 1933 (Saka)

COMPOSITION OF THE STANDING COMMITTEE ON LABOUR

(2011-12)

SHRI HEMANAND BISWAL - CHAIRMAN

2. Shri Raj Babbar
3. Shri Dara Singh Chauhan
4. Shri Virendra Kumar
5. Shri Pakauri Lal
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17. Vacant
18. Vacant
19. Vacant
20. Vacant
21. Vacant

RAJYA SABHA

22. Shri D. Bandyopadhyay
23. Shri Mohd. Ali Khan
24. Shri Aayanur Manjunatha
25. Dr. E. M. Sudarsana Natchiappan
26. Shri Rudra Narayan Pany
27. Smt. Renubala Pradhan
28. Shri Ranbir Singh Parjapati
29. Shri Rajaram
30. Shri Praveen Rashtrapal
31. Shri G. N. Ratanpuri

* Nominated *w.e.f* 25th November, 2011.

SECRETARIAT

1. Shri Devender Singh - Joint Secretary
2. Shri Ashok Sajwan - Additional Director
3. Smt. Bharti S. Tuteja - Under Secretary

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*Will be appended at the time of printing

INTRODUCTION

I, the Chairman, Standing Committee on Labour (2011-12), having been authorized by the Committee do present this Twenty Second Report (15th Lok Sabha) on 'The Mines (Amendment) Bill, 2011'.

2. The Government introduced "The Mines (Amendment) Bill, 2011 in the Rajya Sabha on 23.03.2011 which was referred to the Committee on 01 April, 2011 by the Speaker, Lok Sabha under Rule 331E(b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

3. In the process of examination of the Bill, the Committee invited the representatives of the Ministry of Labour and Employment on 28th April, 2011 and heard their views. The Committee also sought written information on various clauses of the Bill from the Ministry.

4. The Committee invited the views of major Central Trade Unions on the Bill through Memorandum. In response AITUC, INTUC and BMS furnished their comments/suggestions on various clauses of the Bill. On 11, 19 and 30 May, 2011, the representatives of Trade Unions also deposed before the Committee to share their views and gave their suggestions on the proposed amendments in the Bill. The Committee also heard the views of the

representatives of CII on 19th May, 2011 on the proposed amendments proposed by the Government.

5. The Committee also undertook an on-the-spot study visit to Raipur, Ahmedabad, Ranchi and Dhanbad from 04.06.2011 to 10.06.2011 to hear the views of various mine workers, mine owners and trade unions on the amendments proposed in the Bill.

6. The Committee further invited the views/suggestions on the Bill from individuals/experts/institutions interested in the Bill through a Press Communiqué .

7. The Committee considered and adopted the Report at their sitting held 14th December, 2011.

8. The Committee wish to express their thanks to the officers of the Ministry of Labour and Employment and representatives of Trade Unions for tendering evidence before the Committee and furnishing detailed written notes/suggestions on the amending Bill.

9. The Committee would also like to place on record their deep sense of appreciation of the commitment, dedication and valuable assistance rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee.

10. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in thick type in the body of the Report.

New Delhi;

14th December, 2011
23 Agrahayana, 1933(Saka)

HEMANAND BISWAL

CHAIRMAN
STANDING COMMITTEE ON LABOUR

REPORT

CHAPTER I

INTRODUCTORY

The Mines Act, 1952 is the principal Act which lays down safety, health and welfare measures for workers employed in mines and oilfields extending to the whole of India including up to its territorial waters. The first Mines Act was enacted in 1901 and came into force on 22nd March, 1901. The Act was re-enacted in 1952 and was brought into force from 1st July, 1952 and last amended in 1983. Since several development took place giving rise to new safety and health risks in work places, the Government introduced the Mines (Amendment) Bill, 2011 in the Rajya Sabha on 23rd March, 2011.

1.2 The objects and reasons of 'The Mines (Amendment) Bill, 2011' are as follows:-

- (i) To keep pace with the technological, social and environmental changes at workplaces in the mining sector and thereby attempting to effectively manage the safety and health risk to the work persons employed in these sectors in light of several developments in the area of technology, scale of operation, working environment and work practices in coal, non-coal and oil sector.

- (ii) To extend the jurisdiction of the Mines Act beyond 12 nautical miles i.e. upto Exclusive Economic Zone and Maritime Zone of India to cover safety aspect in offshore mining.
- (iii) To prevent evasion of responsibility and any confusion regarding management hierarchy, the term `Agent' is proposed to be amended whereby `Agent' means every person being superior to the manager.
- (iv) To ensure that the `Owner' is someone in-charge of decision making in the corporate hierarchy, the proposed definition of `Owner' means every person or authority having ultimate control over the affairs of the mines and specifies such person (viz. Chief Executive Officer or Managing Director) or authority under all possible circumstances in the present scenario.
- (v) To provide that every person who contracts for the services or operations in the mines, and includes a contractor and sub-contractor, shall also be the owner.

- (vi) To revise the penalty provisions as they have never been revised since 1952 when the Act came into force.

1.3 The salient features of 'The Mines (Amendment) Bill, 2011' are as follows:-

Amendment to the Long Title

- The Bill seeks to amend the “Long Title” of the Act so as to reflect therein the regulation of conditions of work and welfare of persons employed in mines.

Amendment to Section 1

- To clarify that the applicability of the Act to whole of India includes upto the Exclusive Economic Zone and Maritime Zones of India as defined under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976.

Amendment to Section 2

- To clarify the superiority of 'agent' over 'manager' for ensuring effective hierarchical control on mining operations in a multi-disciplinary work environment.

- The Bill seeks to define “foreign company” with reference to the Companies Act, 1956.
- The Bill seeks to substitute the definition of “owner” so as to provide that a person or authority having ultimate control over the affairs of the mine be the owner and specifically provide for the person who would be the owner in the case of (i) company incorporated in India; (ii) foreign company; (iii) firm and other association of persons.

Amendment to Section 18 (Insertion of Section 18A)

- To make provisions for appointment of sufficient number of “officials” having prescribed qualifications for the effective supervision of all operations, equipment, installations and sets to ensure compliance of the provisions of the Act and rules.

Amendment to Section 58

- To amend the Mines Act, 1952, *inter alia*, to give power to Central Government to make rules in respect of section- 18A.

Amendment to Section 63

- To increase the penalties in case of obstruction of Chief Inspector or an Inspector in the discharge of his duties under section 63, from “five hundred rupees” to “fifty thousand rupees”.

Amendment to Section 64

- To amend the Mines Act, 1952, *inter alia* to increase the penalties in case of falsification of records under section 64, from “one thousand rupees” to “one lakh rupees”.

Amendment to Section 65

- To increase the penalties in case of using false certificate of fitness under section 65, from “two hundred rupees” to “twenty thousand rupees”.

Amendment to Section 66

- To increase the penalties in case of omission to furnish plans, etc. under section 66, from “one thousand rupees” to “one lakh rupees”.

Amendment to Section 67

- To increase the penalties in case of contravention of provisions regarding employment of labour under section 67, from “one thousand rupees” to “one lakh rupees”.

Amendment to Section 68

- To increase the penalties in case of employment of persons below eighteen years of age under section 68, from “five hundred rupees” to “fifty thousand rupees”.

Amendment to Section 69

- To increase the penalties in case of failure to appoint a manager of mines, in contravention of the provisions of section 17, under section 69, from “three months, or with fine which may extend to two thousand and five hundred rupees” to “one year, or with fine which may extend to two lakh and fifty thousand rupees”.

Amendment to Section 70

- To increase the penalties in case of failure to give notice of accident, in contravention of the provisions of sub-section (1)

of section 23, under section 70, from five hundred rupees” to “fifty thousand rupees”.

Amendment to Section 72A

- To increase the penalties in case of contravention of certain regulations under section 72A, from, “six months, or with fine which may extend to two thousand rupees” to “one year, or with fine which may extend to two lakh rupees”.

Amendment to Section 72B

- To increase the penalties in case of contravention of the any order issued under section 22 relating to powers of inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous, under section 72B, from “two years imprisonment and fine which may extend to five thousand rupees to “five years imprisonment and fine which may extend to five lakh rupees”.

Amendment to Section 72C

- Seeks to increase the penalties provided in section 72C of the Act for contravention of law with dangerous results.

Amendment to Section 73

- Seeks to increase the penalties provided in section 73 of the Act for contravention of any provision of the Act or of any rule or regulation or bye-law or of any order made thereunder of which no penalty is specified in the Act.

Amendment to Section 74

- Seeks to insert a new section 74A so as to shift the burden of proof upon the person who is being prosecuted or proceeded against to prove that it was not reasonably practical, or, all practical measures to satisfy the safety requirements were taken.

Amendment to Section 76

- Seeks to amend section 76 so as to enlarge the scope to cover the foreign companies and to take away the “manager” out of the scope of the said section.
- Seeks to insert a new section 76A to provide that the person who has actual ultimate control over the affairs of the mines would continue to be liable for the contravention of the provisions of the Act or of any rule or regulation or bye-law or order made there under.

CHAPTER II

CLAUSE BY CLAUSE ANALYSIS OF 'THE MINES (AMENDMENT) BILL, 2011'

Amendment to Long Title

2.1 In the Mines Act, 1952 (hereinafter referred to as the principal Act), in the long title, for the words “regulation of labour and safety in mines”, the words “regulation of conditions of work and welfare of persons employed in mines and safety in mines and to provide for matters connected therewith or incidental thereto” shall be substituted.

2.2 The Ministry in their explanatory note to the amendment stated as follows:-

"The Act does not regulate all aspects of labour sector. It basically regulates safety, health and welfare aspects of the persons employed in mines and hence such changes are proposed in the preamble."

2.3 When asked regarding substituting the word 'Safety' with the words 'Occupational Safety and Health' in the Long Title, the Ministry replied that:

"The proposed amendment in the Long Title of the Act 'Regulation of conditions of work and welfare of persons employed in mines and safety in mines and to provide for matters connected therewith or incidental thereto' was examined in detail during framing of the amendment. All the aspects of safety, health and welfare have been considered not only for the persons employed in mines but also of the matters 'incidental thereto or connected therewith' so as to take care of the conditions existing in mines and the area connected therewith."

2.4 On being asked to comment on the suggestion of one of the trade unions that the words " and to provide for matters connected therewith or incidental thereto shall be deleted as they have wider ramification including settlement of trade union conflicts." The Ministry stated that the words have been included in the Long Title to cover a complete spectrum of activities and matters related to regulation of conditions of work and welfare of persons employed in mines and safety in mines, which is in consonance with the spirit of the Mines Act.

2.5 As regards, the occupational health survey of workers who are employed on daily basis, the Ministry stated that:

"The provisions of medical examination and medical attendance are applicable to persons who are employed on regular basis and are not applicable to those persons who are employed on purely temporary or casual basis for continuous period of less than six months in accordance with the provision of Rule 29 A of the Mines Rules, 1955."

2.6 On being asked about the mines in unorganized sector and safety of workers working there, the Ministry stated that:

"It is a fact that most of the mines in non-coal sector are in private sector. Only few mines engaged in extraction of Iron Ore, Manganese, Copper, Gold etc are in public sector... The Mines engaged in extraction of non-coal minerals are mostly in unorganized sector. Only few of those mines are submitting notice of opening and returns whereas most of the mines are not on records of this Directorate... Whenever, there is an accident in such mines, the information of such accidents are received through newspaper or in the form of complaints. Then only, this Directorate comes to know about the existence of such mines. When the Officers of this

Directorate go for enquiries into accidents and complaints, then we take legal actions and prosecute the offenders in the court of Law...The Field Inspecting Officers conduct inspections of such mines, and issue violation letters, notices and prohibitory orders to the mine operators."

2.7 On the issue of provision for medical attentions to the retired workers and whether the occupational health survey includes people who have retired from their job, the Ministry stated that:

"At present there is no provision for medical attendance to the retired workers and the occupational health survey for who have retired from their job."

Amendment to Section 1 - Extension of Mines Act, 1952 to Offshore area beyond 12 nautical miles:

2.8 In section 1 of the principal Act, in sub-section (2), after the words "whole of India", the words and figures "including the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India as defined under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976" shall be inserted.

2.9 The Ministry in their explanatory note to the amendment stated as follows:-

- "(i) The Offshore Area Mineral (Development and Regulation) Act 2002 has been framed for regulation & development of minerals in offshore up to exclusive economic zones of India.
- (ii) The Oilfields (Regulation and Development) Act 1948 has also been extended upto exclusive economic zones of India
- (iii) Since there is no law on the matters related to safety & labour applicable to offshore area beyond 12 nautical miles, this has been proposed to be extended up to the exclusive economic zone & Maritime Zones of India."

Amendment to section 2 -Hierarchy of Agents vis-a-vis manager, definition of foreign company, definition of owner

2.10 In section 2 of the principal Act, in sub-section (1), clause (c), for the words "every person", the words "every person, being superior to the manager" shall be substituted;

2.11 The Ministry in their explanatory note to the amendment stated as follows:-

"(1)(c) The amendment ensures superiority of agent to manager which is necessary because agent takes part in management, control, supervision or direction of the mine or any part thereof on behalf of the owner. Further with the making of an agent superior to a manager in the hierarchy possibility of any interference, confusion and communication gap will be avoided especially in a work environment which is multi-disciplinary in nature."

(ii) after clause (g), the following clause shall be inserted, namely:-

‘(ga) “foreign company” means the company falling under section 591 of the Companies Act, 1956;’;

2.12 The Ministry in their explanatory note to the amendment stated as follows:-

"(ga) Definition of “foreign company” is required in view of the proposed change in definition of the “owner”."

(iii) for clause (l), the following clause shall be substituted, namely:-

(l) “owner” when used in relation to a mine, means a person or authority having ultimate control over the affairs of the mine:

Provided that where the mine belongs to,-

(i) a company incorporated in India, the managing director thereof, and if there is no managing director, all the whole-time directors of the board of directors of the company, as the case may be, shall be the owner;

(ii) a foreign company, the principal officer, by whatever name called, including its director and secretary, shall be the owner;

(iii) a firm or other association of persons, all the individual partners or members thereof, shall be the owner:

Provided further that, in the case of a body corporate without a managing director, or in the case of a firm or other association of persons, where a specific nomination has been made, in favour of a whole-time director, managing partner or member, as the case may be, such whole-time director, managing partner and member shall be the owner:

Provided also that where a mines belongs to,-

(i) a local authority or body, the person having the ultimate control over such authority or body;

(ii) a person who has the prospecting license, mining lease or mining right, such person;

(iii) a liquidator or receiver, such liquidator or receiver, as the case may be, shall be the owner:

Provided also that any contractor or sub- lessee for the working of a mine or any part thereof, shall also be the owner, but, not so as to exempt the owner from any liability.

Explanation: For the purposes of this clause,-

(i) the expressions “body corporate”, “board of directors”, “company”, “director”, “firms” and “managing director” shall have the same meanings respectively assigned to them under the Companies Act, 1956;

(ii) the expressions “prospecting license” and “mining lease” shall have the same meanings respectively assigned to them under the Mines and Minerals (Development and Regulation) Act, 1957;"

2.13 The Ministry in their explanatory note to the amendment stated as follows:-

"To give due importance to the cause of safety, health and welfare of persons employed in mines, it is essential that such responsibility must rest with the person having the ultimate control over the affairs of the mine. The change in the definition of “owner” will ensure that those in charge of decision-making in the corporate hierarchy are made accountable and not merely someone designated by the

company to take the responsibility. For foreign companies desirous of operating in India, due provision has been kept for the principal officer residing in India to own the responsibility for safety, health and welfare of persons. Responsibility of contractor and sub-lessee has been made clearer."

2.14 Operation of mines has changed with the advancement in Science and Technology and people are going 50 kms to 60 kms from on-shore to off-shore. When asked whether the Ministry have examined the working conditions in the mines as which are not same in on shore and off shore and whether the Ministry have applied their mind to see that the workers work under those conditions are protected. In response the Ministry replied that:

"Today, we go up to 12 nautical miles and now we will be going up to 200 nautical miles and the mining operations are being opened to private sector. So, the health and safety of workers becomes very relevant. We have already trained our officers. We have sent our officers to USA, Australia, South Africa, Germany and to many other countries so that they are prepared to handle the workmen upto 200 nautical miles. Up to 12 nautical miles we are already doing, but this use of technically equipped inspection machinery with the latest

knowledge of health and safety in off-shore mines, we have already started the job."

Insertion of new section 18A- Appointment of officials and agents in mines

2.15 After section 18 of the principal Act, the following section shall be inserted, namely:-

"18A.(1) Without prejudice to any of the provisions of this Act or any other law for the time being in force, the owner of every mine shall appoint,-

(a) sufficient number of his officials, as may be prescribed, for the effective supervision of all operations, equipment, installations and sites, in the mine of such owner to ensure compliance with the provisions of the Act and of the rules and regulations made and of any order issued, there under;

(b) such number of his agents, as may be prescribed, specifying their functions, duties and responsibilities in respect of each of his mines.

Explanation. – For the purpose of this sub-section, the expression "official" means a person, having such

qualifications, as may be prescribed and appointed by, or, on behalf of the owner, to perform the duties of supervision in mine of such owner or part thereof, in such capacity as may be prescribed.

(2) Every agent referred to in clause (b) of sub-section (1) shall,-

(a) possess such qualifications and experience, as may be prescribed;

(b) be resident in India for at least one hundred and eighty-two days during any year or such other period as may be prescribed.

(3) The owner shall, in respect of every agent referred to in clause(b) of sub-section(1), forthwith send notice of appointment of such agent to the Chief Inspector and the Inspector, specifying the functions, duties and responsibilities of every such agent in respect of the mine for which he is appointed as such;”.

2.16 The Ministry in their explanatory note to the amendment stated as follows:-

"18A(1): It is very essential to have sufficient number of qualified persons for supervision in the mine to ensure safe operations. This requirement would be mandatory on the part

of the owner to ensure adequate & effective supervision through appointment of competent & qualified Supervisors. This provision is necessary to avoid any gap in communication and giving instructions to the manager by unauthorized persons.

18A(2): Qualifications and experience have become relevant in today's context due to multi-disciplinary cadres of management, particularly in the organized sector. With multi-national companies (MNCs) now operating in India, such persons are also required to be resident in the country for their accountability.

18A(3): Confusion amongst the agents regarding their responsibilities will be avoided as the functions, duties and responsibilities of each such agent appointed by the owner will be specified and their notices of appointment will be sent to the Chief Inspector and the Inspector of Mines."

2.17 When asked to explain the status of the agents who have already been appointed by the management but do not possess desired qualifications and experience. The Ministry in their written reply stated that:

"After coming into force of this amendment with the due date of effectiveness, the owner will have to appoint agents with prescribed experience and qualifications. The agents, who

have already been appointed, will be re-appointed by the owner clearly specifying their area of jurisdiction in accordance with their qualifications and experience which they possess presently. Therefore, the provisions have been made for appointment of more number of agents in different areas of specialization like personal, finance, materials management, electrical, mechanical, occupational health etc."

2.18 On being asked to modify the definition of 'agent' 'since all agents are to be re-appointed, the Ministry in their written reply stated that:

"Agent takes part in management, control, supervision or direction of the mine on behalf of the owner; therefore, agent should be superior to the mine manager in hierarchy so that interference, confusion and communication gap is avoided especially in a work environment which is multi - disciplinary in nature. Therefore, the amendment is essential."

2.19 The Ministry further replied that:

"Whether appointed as such or not" is a saving clause. This is to cover the eventuality of the owner's failure to appoint a person as agent, when such person appointed in any capacity

acts on behalf of owner and exercises supervision, management and control over the activities of the mine. Therefore, it is essential to retain the same."

2.20 When asked to clarify the hierarchy of qualified officials to be appointed as per the proposed section vis-à-vis agents and managers, the Ministry stated that the status of officials has been defined appropriately in the subordinate legislation, framed under the provisions of the Mines Act, which is subordinate to 'agent' and 'manager'.

2.21 The Ministry further stated that:

"The concept of multiple agent exist and inclusive to the Mines Act, 1952. In large organization with multidisciplinary staff functional units, manager alone cannot be accountable to all the functions. The present amendment is aimed to make the role & function of agent(s) explicit, being superior to manager. The owner shall clearly define the sphere of activity and domain of responsibility of each of the agents appointed by him, leaving no room for confusion.

In view of the above, no difficulties are anticipated in this regard."

2.22 When the attention of the Ministry was...to the fact that appointment of officials is also dealt in section 57 (1) of the existing Act and asked why do we need this repetition, the Ministry submitted that as per the provisions of subordinate legislation framed under the Mines Act, owner, agent or manager shall appoint such number of competent persons, including officials and technicians after assessing their competence by qualifications, experience and actual tests.

Amendment to section 58:- Power to Central Government to make rules, regulation -

2.23 In section 58 of the principal Act, after clause (a), the following clauses shall be inserted, namely:-“(aa) number of officials to be appointed under clause (a) of sub-section (1) of section 18A;

(ab) number of the agents to be appointed under clause (b) of sub-section(1) of section 18A;

(ac) the qualifications of the officials to be appointed under sub-section (1) of section 18A;

(ad) the qualifications and experience of the agents under clause (a) of sub-section (2) of section 18A;

(ae) the period during which the agent shall be resident in India under clause (b) of sub-section (2) of section 18A;”.

2.24 The Ministry in their explanatory note to the amendment stated as follows:-

"In view of the proposal of new section 18A in the Act, it is required to give power to Central Government to make Regulations, Rules & Bye-laws regarding:

(aa) number of officials to be appointed,

(ab) number of the agents to be appointed,

(ac) the qualifications of the officials to be appointed,

(ad) the qualifications and experience of the agents, and

(ae) the period during which the agent shall be resident in India."

2.25 Asked to give their views on the suggestion that agents should only be allowed to leave country after getting NOC from DGMS, the Ministry replied that:

" Agent is a person authorized to act on behalf of the Owner, in respect of management, control, supervision or direction of a mine. In absence of Agent, Owner is solely responsible for the

above functions. In view of this, NOC from DGMS in such cases appears to be not necessary."

Amendment to sections 63 to 73:- Revision in the penalty provisions

2.26 In section 63 of the principal Act, _

(a) In sub-section (1) for the words "five hundred rupees", the words "fifty thousand rupees" shall be substituted.

(b) In sub-section (2) for the words "three hundred rupees", the words "thirty thousand rupees" shall be substituted.

In section 64 for the words "one thousand rupees", the words "one lakh rupees" shall be substituted.

In section 65 for the words, "two hundred rupees", the words "twenty thousand rupees" shall be substituted.

In section 66 for the words, "one thousand rupees", the words "one lakh rupees" shall be substituted.

In section 67 for the words, "one thousand rupees", the words "one lakh rupees" shall be substituted.

In section 68 for the words, "five hundred rupees", the words "fifty thousand rupees" shall be substituted.

In section 69 for the words, “three months, or with fine which may extend to two thousand and five hundred rupees”, the words “one year, or with fine which may extend to two lakh and fifty thousand rupees” shall be substituted.

In section 70 in sub-sections (1) and (2), for the words “five hundred rupees” at both the places, where they occur, the words “fifty thousand rupees” shall be substituted.

Amendment to section 72A

2.27 In section 72A of the principal Act, for the words “six months or with fine which may extend to two thousand rupees”, the words “one year, or with a fine which may extend to two lakhs rupees”, shall be substituted.

Amendment to section 72B

2.28 In section 72B of the principal Act,-

(a) for the words “two years and shall also be liable to fine which may extend to five thousand rupees”, the words “five years and shall also be liable to fine which may extend to five lakh rupees” shall be substituted.

(b) for the words “two thousand rupees”, the words “two lakh rupees” shall be substituted.

2.29 The Ministry in their explanatory note to the amendment stated as follows:-

"Prohibitory orders are issued only when the conditions in the mine are extremely dangerous posing serious threat to the life and health of persons employed therein. Any contravention of such orders thus needs to be contained through suitable punitive measures.

There has not been any revision in the penalty provisions since the enactment of the Mines Act, 1952.

The penalties (fine and imprisonment) mentioned are the maximum. The actual amount of fine and term of imprisonment so imposed shall be awarded by the judiciary commensurate to the nature of offence."

Amendment to section 72C

2.30 In section 72C of the principal Act,-

(a) in sub-section (1),-

(i) in clause (a), for the words “two years, or with fine which may extend to five thousand rupees”, the words “five years or

with fine which may extend to five lakh rupees” shall be substituted;

(ii) in clause (b), for the words “three thousand rupees’, the words “three lakh rupees” shall be substituted;

(iii) in clause (c), for the words “three months’ or with fine which may extend to one thousand rupees”, the words “one year, or with a fine which may extend to one lakh rupees” shall be substituted.

(iv) in the proviso, for the words ‘shall not be less than three thousand rupees”, the words “shall not be less than three lakh rupees” shall be substituted;

(b) After sub-section (1), the following sub- section shall be inserted, namely:-

“(1A) where the contravention falls under any of the three clauses of sub-section (1), the award of punishment shall be in accordance with the maximum punishment provided under the clauses being so contravened.”.

2.31 The Ministry in their explanatory note to the amendment stated as follows:-

"Contraventions that lead to loss of human lives or serious bodily injury to any person must attract the maximum penalty."

Amendment to section 73

2.32 In section 73 of the principal Act,-

(a) for the words “which may extend to three months, or with fine which may extend to one thousand rupees,” the words “which may extend to one year or with fine which may extend to one lakh rupees,” shall be substituted;

(b) the following proviso shall be inserted, namely:-

“Provided that in case the contraventions of any provision of this Act or of any rule, or regulation, bye-law or of any order made there under continues, additional fines shall be imposed which may extend to one thousand rupees for each day on which the contravention is continued, and, if such contravention continues beyond a period of one year after the date of conviction or contravention, the offender shall be punishable with imprisonment for a term, which may extend to seven years.”.

2.33 The Ministry in their explanatory note to the amendment have stated that:-

"There has not been any revision in the penalty provisions since the enactment of the Mines Act, 1952.

The penalties (fine and imprisonment) mentioned are the maximum. The actual amount of fine and term of imprisonment so imposed shall be awarded by the judiciary commensurate to the nature of offence.

Repetitive contraventions have been made more stringent. Similar provision exists under The Environment (Protection) Act, 1986."

2.33 When the Ministry were informed that increase in penal provisions and punishment will affect workers and supervisory staff more than the management and that Professional lapses cannot be compared with criminal offences as in mining industry much depends on the natural forces, to which the Ministry replied that:

"There has not been any revision in the penalty provisions since the enactment of the Mines Act, 1952 and therefore, the very purpose of penalties serving as a deterrent to committing offences is not met with. The penalty (fine) mentioned is the maximum. The actual amount of fine so imposed shall be awarded by the judiciary commensurate with the nature of offence."

2.34 When asked to give their views on the suggestion that in case of loss of lives owner of the mine should invariably be held responsible and penalty be imposed on owner based on the number of lives lost and injured victims, the Ministry responded as follows:

"In case of fatal accidents, an enquiry is conducted by the Chief Inspector or an inspector of mines to ascertain the cause and circumstances leading to the incident and affixing responsibility for the same, including the Owner."

2.35 The Ministry were asked why the amount, collected in form of penalties, cannot be paid to the victims as compensation statutorily, the Ministry stated that necessary provision in this regard already existed in the Mines Act.

2.36 When asked to give their views on adding provisions on the lines of Federal Mines Safety and Health Act of USA in the Mines Act, 1952 and the need for establishment of an Independent Review Commission, the Ministry in their written reply stated:

"In Indian conditions, as per Mines Act, 1952, the jurisdiction and authority to decide on the quantum of penalty in the form

of fine and/or imprisonment rests solely with judiciary. The penalty (fine) mentioned is the maximum. The actual amount of fine so imposed shall be awarded by the judiciary who shall give due consideration to cause and circumstances leading to committing of the offence by the operator and, commensurate with the nature of offence. The present system in India adequately addresses the concerns of the operator, and no change appears to be necessary. Under section 12 of the Mines Act, 1952, provision for formation of a Committee already exists. The Committee is to be constituted by the Central Government, whose functions, among others, include;...hear and decide such appeals or objections against notices or orders under this Act or the regulations, rules or bye-laws made there under, as are required to be referred to it by this Act or as may be prescribed. As adequate mechanism for grievance redressal already exists, and is already functioning satisfactorily.

2.37 On the issue of strict action against DGMS officials who fail to give reports on the apparent shortcomings, the Ministry stated that:

"As per the Mines Act, the responsibility of ensuring the safety, health and welfare of miners is that of Owner, Agent and Manager and other officials appointed by the Owner. This is also in accordance to International law."

Burden of Proof- Insertion of new section 74A

2.38 After section 74 of the principal Act, the following section shall be inserted, namely:-

"74A. Where any person is prosecuted, or proceeded against, for contravening any of the provisions of this Act or of any rule, or regulation, or bye-law or order made there under, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable, or, as the case may be, all practicable measures, were taken, to satisfy the safety requirements, duty or other requirements, as the case may be."

2.39 The Ministry in their explanatory note to the amendment stated as follows:-

"This new provision will deter defaulters from non-compliance with the provisions of the statute and thereby create the requisite safety culture. It will also facilitate prosecution in cases of violation of the provisions. Similar provision also exists in section 104A of the Factories Act, 1948."

2.40 When asked since the burden of proof has been shifted on the person who is being prosecuted or proceeded against, poor workers or middle/lower level officials are likely to be made scapegoats by higher authorities, the Ministry were of the view that:

"This new provision will deter defaulters from non-compliance with the provisions of the statute and thereby create the requisite safety culture. It will also facilitate prosecution in cases of violation of the provisions. Similar provision also exists in section 104A of the Factories Act, 1948."

2.41 When asked to change the proposed amendment so as to bring it in tune with the accepted legal practices, the Ministry replied as under:-

"Mining is most hazardous operation of peacetime. Inferences drawn from the inquiries conducted into the causes of and

circumstances attending to accidents and dangerous occurrences in mines point to the fact that most of them were caused due to human failure, and in essence, were preventable. This new provision would deter multinationals from inadequate punishment, and would unburden the judiciary as well as legal expenses, and deter the defaulters from non-compliance with the provisions of the statute and thereby create the requisite safety culture in line with international norms. It will also facilitate prosecution in cases of violation of the provisions, which is often associated with serious consequences from the point of view of mine safety. Similar provision also exists in section 104A of the Factories Act, 1948."

Exclusion of manager – Amendment of section 76

2.42 In section 76 of the principal Act,-

(a) for the words "all or any of the directors thereof", the words "managing director; all or any of the directors thereof or where the owner of a mine is a foreign company, all or any of its principal officers, by whatever name called, including its director or secretary" shall be substituted.

(b) in the proviso,-

(i) in clauses (a), (b) & (c) the words "or managers" occurring at the end, shall be omitted.

(ii) after clause (c), the following clause shall be inserted, namely:-

“(d) in the case of a foreign company, any of its principal officers, by whatever name called, including its director or secretary.”

(iii) after clause (d) as so inserted, in the long line, the words “or manager” occurring at both the places, shall be omitted.

2.43 The Ministry in their explanatory note to the amendment stated as follows:-

"Amendment is necessary to ensure compatibility with the proposed amendment of section 2 of the Act, regarding definition of the owner."

2.44 Further the Ministry in their written reply stated that:

" Manager is a paid employee of the company. He is junior officer and subordinate to the General Manager and other Senior Officials of the company including Agent and the Owner. He does not hold the power which is vested with the Senior Officials and Director or Managing Director of the Company. Therefore, Manager cannot be nominated or considered to be the Owner of the Mine. However, the term “manager” has been mentioned at many places in the Act

under sections 16 – for notice to be given of mining operations, section 17- Managers regarding appointment of manager for operation of every mine and the qualifications prescribed under the regulations and under section – 18 regarding Duties and responsibilities of owners, agents and managers. Statutory duties of the managers have also been defined under the Coal Mines Regulations, 1957, The Metalliferous Mines Regulations, 1961 and the Oil Mines Regulations, 1984. Thus the term “managers” in the provisions of section 76 leads to confusion and duality of roles and responsibility in the Act. In order to obviate any ambiguity in the matter, DGMS has proposed suitable amendment in the aforesaid section of the Mines Act, 1952 to the effect that the term “manager” may be deleted from the clauses (a); (b) and (c) of the proviso to Section 76."

Continuance of liability - Insertion of new section 76A

2.45 After section 76 of the principal act, the following section shall be inserted, namely:-

“76A. Nothing contained in this Act shall absolve any person from his liability under this Act, if such person had or has ultimate control over the affairs of the business of the mines.”

2.46 The Ministry in their explanatory note to the amendment stated as follows:-

"New section 76A is proposed to be inserted so as to ensure continuance of liability. It is explicitly clear that if any officer other than members of the Board of Directors are nominated as the Owner under Section 76 of the Miners Act, 1952, the main motto and purpose of the special enactment shall be defeated. In the interest of the cause of safety of the mine and mine workers, it is imperative that the ownership must lie with the post/person in the organisation who is vested with real and ultimate authority in control, management and direction of the mine....A separate sub-clause 76A has been inserted to cover the foreign company operating as owner of the mine, which stipulates "Nothing contained in this Act shall absolve any person from his liability under this Act, if such person had or has ultimate control over the affairs of the business of the mines."

CHAPTER-III

OBSERVATIONS/RECOMMENDATIONS

Long title of the Bill

3.1 The Committee note that the Bill proposes to amend the long title of the principal Act by substituting the words “regulation of conditions of work and welfare of persons employed in mines and safety in mines” for the words “regulation of labour and safety in mines”. Going through the provisions of the Act, Committee find that there is no provision for medical examination and medical attendance for retired /temporary/casual workers who have less than six months of continuous service. Taking note of the National Policy on Safety, Health & Environment at Work Place of the Ministry of Labour and Employment, the Government of India is committed to regulate all economic activities for management of safety and health risks at workplace and to provide measures so as to ensure safe and healthy working conditions for every working man and woman in the nation, the Committee desire that the health and safety of all the workers

irrespective of their status (permanent/temporary/casual/retired) be shouldered by the Government. Accordingly, the Committee recommend that the words “regulation of labour and safety in mines” be substituted with the words “regulation of conditions of work, welfare and health of persons retired/employed in mines and safety in mines and to provide for matters connected therewith or incidental thereto”. Similarly, the Committee also desire that adequate provisions be made in the Act to protect the workers of unorganized mines as visualized in the long title of the Act.

Extension of application of the Mines Act,1952

3.2 The Bill seeks to amend section 1 of the principal Act to include the territorial waters, continental shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976. The Committee feel that in the absence of any law, with respect to safety of labour, applicable to offshore areas beyond 12 nautical miles, this amendment was necessary and hence appreciate the proposed amendment.

Definition of Agent

3.3 The Bill proposes to amend section 2 sub-section (1) to ensure superiority of agent over the manager by substituting the words “every person being superior to the manager” in the definition of agent. The Bill also proposes to insert section 18 (A) to make it mandatory for appointment of agents. The proposed amendment also provides for sending notice of appointment of such agents to Chief Inspector specifying therein the functions, duties and responsibilities of each agent. The Committee are of the view that the definition of the agent "when used in relation to mines means every persons appointed, acting, purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of the mine or any part thereof" needs to be further modified. The Committee hope that once the proposed amendments are implemented, all the agents will be appointed/reappointed and the notice of their appointment will be sent to the Chief Inspector or Inspector in writing specifying all the relevant details. The Committee do not concur with the contention of

the Government regarding substitution of the clause “whether appointed as such or not” as the same contravenes the very provision for mandatory appointment of agent.

The insertion of section 18-A, provides for appointment of sufficient number of agents. In such an eventuality, the sole manager appointed under section 17 of the Mines Act, 1952 would be accountable to more than one agents consequent to the proposed amendments. The Committee feel that having too many bosses is against the principle of Unity of Command. The Committee are apprehensive that if a manager has multiple superior authorities, it would create conflicting lines of command. The Committee, therefore, recommend the Government to have a re-look into the practical problems that may entail the implementation of proposed amendment.

Definition of Owner

3.4 The Committee note that to give due importance to the causes of safety and health in mines, the definition of owner is proposed to be changed. The Committee agree with the proposal of the Government to change the definition of owner to ensure that those in charge of decision-making in the corporate hierarchy are made accountable.

Definition of Foreign Company

3.5. The Committee also find the insertion of the definition of foreign company in view of the proposed change in the definition of 'owner' justified. Hence, the Committee agree with the proposal of the Government.

Appointment of Qualified Officials

3.6 The Bill seeks to amend section 58 of the principal Act by inserting a new section, namely, 18-A regarding the number of officials to be appointed, qualifications of officials, experience

of the agents, the period during which the agent shall be resident in India. The Committee find the insertion appropriate and in accordance with the section 18-A (1), and are in agreement with the new insertion.

Enhancement in penalties

3.7 The Bill seeks to amend sections 63-70, 72 & 73 of the principal Act relating to penalties. The Committee are of the view that merely increasing the penalties manifold would not serve the purpose unless a sense of responsibility and acknowledgment of the harm done is imparted to the offenders. The Committee are of the considered view that while determining the quantum of penalty, the history of previous violations by the offender, the size of the business (in case owners/company/corporation is an offender), negligence on the part of the offender, gravity of violation, the harm done, loss of lives and the demonstrated good faith of the offender in attempting to achieve rapid compliance after notice of violation is given be taken into account. The Committee

recommend that an express provision in this regard be inserted in the principal Act. The Committee desire the Government to consider setting up of an independent authority on lines of the Federal Mine Safety and Health Review Commission as exists in USA to hear cases relating to contravention of the provisions of Mines Act, 1952 having appellate provision of judicial review.

Onus of Proof

3.8 The Bill seeks to insert a new section 74 A regarding burden of proof. The Committee note that as per the proposed amendment, the burden of proof would be on the alleged defaulters. The Government claimed that such a shift in the burden of proof would deter non-compliance with the provisions of the statute and help create the requisite safety culture in line with international norms. Further, it would facilitate prosecution of the law violators. The Committee, however, feel that the amendment is against the principles of natural justice. According to legal dictionary "the plaintiff is normally charged with the burden of proof, but the defendant

can be required to establish certain defences and in criminal cases, the burden of proof is placed on the prosecution, who must demonstrate that the defendant is guilty before a jury may convict him or her.

The Committee are, therefore, of the firm view that the proposed amendment is not in consonance with the prevailing legal practices. The Committee, therefore, recommend that the onus of proof may not be shifted on the alleged defaulter.

Determination of owner in certain cases

3.9 The Committee note that the amendment proposed to section 76 of the Act is in general accord and harmony with the amendment proposed in section 2 of the principal Act, widens the scope of ownership and is labour friendly. The Committee, therefore, concur with the amendment proposed.

Continuance of liability

3.10 The Committee note that the Government propose to insert section 76 A to ensure continuance of liability of such person who had or has ultimate control cover the affairs of the business of the Mines. The Committee, while agreeing to the proposal, recommend that a provision for vicarious liability be also inserted in the Act so that the employer, manager or the person employed are held responsible severally for the offence attributable to connivance, neglect or prior knowledge.

New Delhi;

14th December, 2011
23 Agrahayana, 1933(Saka)

HEMANAND BISWAL

CHAIRMAN
STANDING COMMITTEE ON LABOUR

THE MINES (AMENDMENT) BILL, 2011

A

BILL

further to amend the Mines Act, 1952.

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

1. (1) This Act may be called the Mines (Amendment) Act, 2011.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In the Mines Act, 1952 (hereinafter referred to as the principal Act), in the long title, for the words “regulation of labour and safety in mines”, the words “regulation of conditions of work and welfare of persons employed in mines and safety in mines and to provide for matters connected therewith or incidental thereto” shall be substituted.
3. In section 1 of the principal Act, in sub-section (2), after the words “whole of India”, the words and figures “including the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India as defined under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976” shall be inserted.
4. In section 2 of the principal Act, in sub-section (1),—
 - (i) in clause (c), for the words “every person”, the words “every person, being superior to the manager” shall be substituted;
 - (ii) after clause (g), the following clause shall be inserted, namely:—
“(ga) “foreign company” means the company falling under section 591 of the Companies Act, 1956;
 - (iii) for clause (l), the following clause shall be substituted, namely:—

“(l) “owner”, when used in relation to a mine, means a person or authority having ultimate control over the affairs of the mine:

Provided that where the mine belongs to,—

(i) a company incorporated in India, the managing director thereof, and if there is no managing director, all the whole-time directors of the board of directors of the company, as the case may be, shall be the owner;

(ii) a foreign company, the principal officer by whatever name called, including its director and secretary, shall be the owner;

(iii) a firm or other association of persons, all the individual partners or members thereof, shall be the owner:

Provided further that, in the case of a body corporate without a managing director, or in the case of a firm or other association of persons, where a specific nomination has been made, in favour of a whole-time director, managing partner or member, as the case may be, such whole-time director, managing partner and member shall be the owner:

Provided also that where a mine belongs to,—

(i) a local authority or body, the person having the ultimate control over such authority or body;

(ii) a person who has the prospecting licence, mining lease or mining right, such person;

(iii) a liquidator or receiver, such liquidator or receiver, as the case may be, shall be the owner:

Provided also that any contractor or sub-lessee for the working of a mine or any part thereof, shall also be the owner, but, not so as to exempt the owner from any liability.

Explanation.— For the purposes of this clause,—

(i) the expressions “body corporate”, “board of directors”, “company”, “director”, “firms” and “managing director” shall have the same meanings respectively assigned to them under the Companies Act,

1956;

(ii) the expressions “prospecting licence” and “mining lease” shall have the same meanings respectively assigned to them under the Mines and Minerals (Development and Regulation) Act, 1957;’.

5. After section 18 of the principal Act, the following section shall be inserted, namely:—

‘18A. (1) Without prejudice to any of the provisions of this Act or any other law for the time being in force, the owner of every mine shall appoint,—

(a) sufficient number of his officials, as may be prescribed, for the effective supervision of all operations, equipment, installations and sites, in the mine of such owner to ensure compliance with the provisions of the Act and of the rules and regulations made and of any order issued, thereunder;

(b) such number of his agents, as may be prescribed, specifying their functions, duties and responsibilities in respect of each of his mines.

Explanation.—For the purpose of this sub-section, the expression “official” means a person, having such qualifications, as may be prescribed and appointed by, or, on behalf of the owner, to perform the duties of supervision in mine of such owner or part thereof, in such capacity as may be prescribed.

(2) Every agent referred to in clause (b) of sub-section (1), shall,—

(a) possess such qualifications and experience, as may be prescribed;

(b) be resident in India for at least one hundred and eighty-two days during any year or such other period as may be prescribed.

(3) The owner shall, in respect of every agent referred to in clause (b) of subsection (1), forthwith send notice of appointment of such agent to the Chief Inspector and the Inspector, specifying the functions, duties and responsibilities of every such agent in respect of the mine for which he is appointed as such.’.

6. In section 58 of the principal Act, after clause (a), the following clauses shall be inserted, namely:—

“(aa) number of officials to be appointed under clause (a) of sub-section (1) of section 18A;

(ab) number of the agents to be appointed under clause (b) of sub-section (1) of section 18A;

(ac) the qualifications of the officials to be appointed under sub-section (1) of section 18A;

(ad) the qualifications and experience of the agents under clause (a) of subsection (2) of section 18A;

(ae) the period during which the agent shall be resident in India under clause (b) of sub-section (2) of section 18A;”.

7. In section 63 of the principal Act,—

(a) in sub-section (1), for the words “five hundred rupees”, the words “fifty thousand rupees” shall be substituted;

(b) in sub-section (2), for the words “three hundred rupees”, the words “thirty thousand rupees” shall be substituted.

8. In section 64 of the principal Act, for the words “one thousand rupees”, the words “one lakh rupees” shall be substituted.

9. In section 65 of the principal Act, for the words “two hundred rupees”, the words “twenty thousand rupees” shall be substituted.

10. In section 66 of the principal Act, for the words “one thousand rupees”, the words “one lakh rupees” shall be substituted.

11. In section 67 of the principal Act, for the words “one thousand rupees”, the words “one lakh rupees” shall be substituted.

12. In section 68 of the principal Act, for the words “five hundred rupees”, the words “fifty thousand rupees” shall be substituted.

13. In section 69 of the principal Act, for the words “three months, or with fine which may extend to two thousand and five hundred rupees”, the words “one year, or with fine which may extend to two lakh and fifty thousand rupees” shall be substituted.

14. In section 70 of the principal Act, in sub-sections (1) and (2), for the words “five hundred rupees” at both the places where they occur, the words “fifty thousand rupees” shall be substituted.

15. In section 72A of the principal Act, for the words “six months, or with fine which may extend to two thousand rupees”, the words “one year, or with fine which may extend to two lakh rupees” shall be substituted.

16. In section 72B of the principal Act,—

(a) for the words “two years, and shall also be liable to fine which may extend to five thousand rupees”, the words “five years and shall also be liable to fine which may extend to five lakh rupees” shall be substituted;

(b) for the words “two thousand rupees”, the words “two lakh rupees” shall be substituted.

17. In section 72C of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words “two years, or with fine which may extend to five thousand rupees”, the words “five years or with fine which may extend to five lakh rupees” shall be substituted;

(ii) in clause (b), for the words “three thousand rupees”, the words “three lakh rupees” shall be substituted;

(iii) in clause (c), for the words “three months, or with fine which may extend to one thousand rupees”, the words “one year, or with fine which may extend to one lakh rupees” shall be substituted;

(iv) in the proviso, for the words “shall not be less than three thousand rupees”, the words “shall not be less than three lakh rupees” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where the contraventions falls under any of the three clauses of sub-section (1), the award of punishment shall be in accordance with the maximum punishment provided under the clauses being so contravened.”.

18. In section 73 of the principal Act,—

(a) for the words “which may extend to three months, or with fine which may extend to one thousand rupees,”, the words “which may

extend to one year or with fine which may extend to one lakh rupees," shall be substituted;

(b) the following proviso shall be inserted, namely:—

“Provided that in case the contraventions of any provision of this Act or of any rule, or regulation, bye-law or of any order made thereunder continues, additional fines shall be imposed which may extend to one thousand rupees for each day on which the contravention is continued, and, if such contravention continues beyond a period of one year after the date of conviction or contravention, the offender shall be punishable with imprisonment for a term, which may extend to seven years.”.

19. After section 74 of the principal Act, the following section shall be inserted, namely:—

“74A. Where any person is prosecuted, or proceeded against, for contravening any of the provisions of this Act or of any rule, or regulation, or bye-law or order made thereunder, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable, or, as the case may be, all practicable measures, were taken, to satisfy the safety requirements, duty or other requirements, as the case may be.”.

20. In section 76 of the principal Act,—

(a) for the words “all or any of the directors thereof”, the words “managing director, all or any of the directors thereof or where the owner of a mine is a foreign company, all or any of its principal officers, by whatever name called, including its director or secretary” shall be substituted;

(b) in the proviso,—

(i) in clauses (a), (b) and (c), the words “or managers” occurring at the end, shall be omitted;

(ii) after clause (c), the following clause shall be inserted, namely:—

“(d) in the case of a foreign company, any of its principal officers, by whatever name called, including its director or secretary,”;

(iii) after clause (d) as so inserted, in the long line, the words “or manager” occurring at both the places, shall be omitted.

21. After section 76 of the principal Act, the following section shall be inserted, namely:—

“76A. Nothing contained in this Act shall absolve any person from his liability under this Act, if such person had or has ultimate control over the affairs of the business of the mines.”.

STATEMENT OF OBJECTS AND REASONS

The Mines Act, 1952, was enacted with a view to amending and consolidating the law relating to the regulation of labour and safety in mines. The Act, *inter alia*, regulates the working conditions in mines by providing for measures to be taken for the safety of the workers employed therein and certain amenities for them. The said Act was amended in 1983 by the Mines (Amendment) Act, 1983, *inter alia*, to provide for the prohibition of the employment of persons below eighteen years of age, inspection of mines by workers representatives, safety committees and to regulate the use of machinery to take care of the hazards associated with the introduction of new types of machines.

2. Since the last amendment was made in 1983 there have been several developments in the area of technology, scale of operation, working environment and work practices in coal, non-coal and oil sector. Operations are getting more and more mechanised with introduction of heavy machines, shallow deposits are getting depleted and mines are becoming deeper and complicated and operators from other parts of the world have started acquiring mining rights and managing mining operations within our country. This has created a new safety and health risk scenario at the work places in these sectors. In view of such developments the amendments have been proposed to the Bill mainly to keep pace with the changes at work places in the mining sector and thereby attempting to effectively manage the safety and health risk to the work persons employed in these sectors.

3. The Mines (Amendment) Bill, 2011 proposes to amend the Mines Act, 1952, *inter alia*, to,—

(a) amend the “long title” of the Act so as to reflect therein the regulation of conditions of work and welfare of persons employed in mines;

(b) clarify that the applicability of the Act to whole of India includes up to the Exclusive Economic Zone and Maritime Zones of India as defined under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976;

(c) substitute the definition of “owner” so as to provide that a person or authority having ultimate control over the affairs of the mine be the owner and specifically provide for the person who would be the owner in the case of (i) company incorporated in India; (ii) foreign company; (iii) firm and other association of persons;

(d) define “foreign company” with reference to the Companies Act, 1956;

(e) make provisions for appointment of sufficient number of “officials” having prescribed qualifications for the effective supervision of all operations, equipment, installation and sets to ensure compliance of the provisions of the Act and rules;

(f) increase the penalties,—

(i) in case of obstruction of Chief Inspector or an Inspector in the discharge of his duties under section 63, from “five hundred rupees” to “fifty thousand rupees”;

(ii) in case of falsification of records under section 64, from “one thousand rupees” to “one lakh rupees”;

(iii) in case of using false certificate of fitness under section 65, from “two hundred rupees” to “twenty thousand rupees”;

(iv) in case of omission to furnish plans, etc., under section 66, from “one thousand rupees” to “one lakh rupees”;

(v) in case of contravention of provisions regarding employment of labour under section 67, from “one thousand rupees” to “one lakh rupees”;

(vi) in case of employment of persons below eighteen years of age under section 68, from “five hundred rupees” to “fifty thousand rupees”;

(vii) in case of failure to appoint a manager of mines, in contravention of the provisions of section 17, under section 69, from “three months, or with fine which may extend to two thousand and five hundred rupees” to “one year, or with fine which may extend to two lakh and fifty thousand rupees”;

(viii) in case of failure to give notice of accident, in contravention of the provisions of sub-section (1) of section 23, under section 70, from “five hundred rupees” to “fifty thousand rupees”;

(ix) in case of contravention of certain regulations under section 72A, from, “six months, or with fine which may extend to two thousand rupees” to “one year, or with fine which may extend to two lakh rupees”;

(x) in case of contravention of the any order issued under section 22 relating to powers of inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous, under section 72B, from “two years imprisonment and fine which may

extend to five thousand rupees” to “five years imprisonment and fine which may extend to five lakh rupees”;

(xi) provided in section 72C of the Act for contravention of law with dangerous results;

(xii) provided in section 73 of the Act for contravention of any provision of the Act or of any rule or regulation or bye-law or of any order made thereunder of which no penalty is specified in the Act;

(g) insert a new section 74A so as to shift the burden of proof upon the person who is being prosecuted or proceeded against to prove that it was not reasonably practicable , or, all practicable measures to satisfy the safety requirements were taken;

(h) amend section 76 so as to enlarge the scope to cover the foreign companies and to take away the “manager” out of the scope of the said section; and

(i) to insert a new section 76A to provide that the person who has actual ultimate control over the affairs of the mines would continue to be liable for the contravention of the provisions of the Act or of any rule or regulation or bye-law or order made thereunder.

4. With all the above amendments new mining legislation has become utmost necessary that should not only embrace the current needs of the prevailing environment but also address the future needs of the profession.

5. The bill seeks to achieve the above objectives.

MALLIKARJUN KHARGE
NEW DELHI;
The 9th March, 2011.

ANNEXURE
EXTRACTS FROM THE MINES ACT, 1952
(35 OF 1952)

An Act to amend and consolidate the law relating to the regulation of labour and safety in mines.

* * * * *

CHAPTER I
PRELIMINARY

1. (1) * * * * *

(2) It extends to the whole of India.

* * * * *

2. (1) In this Act, unless the context otherwise requires,—

* * * * *

(c) "agent", when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of the mine or of any part thereof;

* * * * *

(1) "owner", when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor or sub-lessee for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

* * * * *

CHAPTER IX
PENALTIES AND PROCEDURE

63. (1) Whoever obstructs the Chief Inspector, an Inspector, or any person authorised under section 8 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, Inspector or such person any reasonable facility for making any entry, inspection examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

Short title,
extent and
commencement.

Definitions.

8

Obstruction.

9

64. Whoever—

(a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(b) knowingly uses as true any such counterfeit or false certificate, or

(c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(d) falsifies any plan, section, register or record, the maintenance of which is required by or under this Act or produces before any authority such false plan, section, register or record, knowing the same to be false, or

(e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true, shall be punishable with imprisonment for a term which may extend to

three months, or with fine which may extend to one thousand rupees, or with both.

65. Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 43 a certificate granted to another person under that section, or, having been granted a certificate of fitness to himself under that section, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment for a term which may extend to one months, or with fine which may extend to two hundred rupees, or with both.

66. Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, section, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to one thousand rupees.

67. Whoever, save as permitted by section 38, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

68. If a person below eighteen years of age is employed in a mine in contravention of section 40, the owner, agent or manager of such mine shall be punishable with fine which may extend to five hundred rupees.

69. Whoever in contravention of the provisions of section 17, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand and five hundred rupees, or with both.

70. (1) Whoever in contravention of the provision of sub-section (1) of section 23 fails to give notice of any accidental occurrence or to post a copy of the notice on the special notice board referred to in that sub-section and to keep it there for the period specified shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever in contravention of a direction made by the Central Government under sub-section (3) of section 23 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

72A. Whoever contravenes any provision of any regulation or of any bye-law or of any order made thereunder, relating to matters specified in clauses (d), (i), (m), (n), (o), (p), (r), (s) and (u) of section 57 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

72B. Whoever continues to work in a mine in contravention of any order issued under sub-section (1A), sub-section (2) or sub-section (3) of section 22 for under sub-section (2) of section 22A shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in writing in the judgment of the court, such fine shall not be less than two thousand rupees.

72C. (1) Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder other than an order made under sub-section (1A) or sub-section (2) or sub-section (3) of section 22 or under sub-section (2) of section 22A shall be punishable—

(a) if such contravention results in loss of life, with imprisonment which may extend to two years, or with fine which may extend to five thousand rupees, or with both; or

(b) if such contravention results in serious bodily injury, with imprisonment which may extend to one year, or with fine which may extend to three thousand rupees, or with both; or

(c) if such contravention otherwise causes injury or danger to persons employed in the mine or other persons in or about the mine, with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in writing in the judgment of the court, such fine, in the case of a contravention referred to in clause (a), shall not be less than three thousand rupees.

* * * * *

73. Whoever contravenes any provision of this Act or of any regulation, rule or byelaw or of any order made thereunder for the contravention of which no penalty is hereinbefore provided, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

* * * * *

76. Where the owner of a mine is a firm or other association of individuals, all, or any of the partners or members thereof or where the owner of a mine is a company, all or any of the directors thereof or where the owner of a mine is a Government or any local authority, all or any of the officers or persons authorised by such Government or local authority, as the case may be, to manage the affairs of the mine, may be prosecuted and punished under this Act for any offence for which the owner of a mine is punishable:

Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,—

- (a) in the case of a firm, any of its partners or managers;
- (b) in the case of an association, any of its members or managers;
- (c) in the case of a company, any of its directors or managers,

who is resident, in each case in any place to which this Act extends and who is in each case either in fact in charge of the management of, or holds the largest number of shares in such firm, association or company, to assume the responsibility of the owner of the mine for the purposes of this Act, such partner, member, director or manager, as the case may be, shall, so long as he continues to so reside and be in charge or hold the largest member of shares as aforesaid, be deemed to be the owner of the mine for the purposes of this Act unless a notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or manager, as the case may be, is received by the Chief Inspector.

Explanation.—Where a firm, association or company has different establishments or branches of different units in any establishment or branch, different persons may be nominated under this proviso in relation to different establishments or branches or units and the person so nominated shall, with respect only to the establishment, branch or unit in relation to which he has been nominated, be deemed to be the owner of the mine.

RAJYA SABHA

A

BILL

further to amend the Mines Act, 1952.

(Shri Mallikarjun Kharge, Minister of Labour and Employment)
GMGIPMRND—7175RS(S3)—15-03-2011.

**MINUTES OF THE SITTING OF THE STANDING COMMITTEE ON
LABOUR HELD ON 28TH APRIL, 2011.**

The Committee met from 1130 hrs. to 1300 hrs. in Committee Room `B', Parliament House Annexe, New Delhi to have briefing by the representatives of the Ministry of Labour and Employment on (i) "The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments) Amendment Bill, 2011" and (ii) "The Mines (Amendment) Bill, 2011".

PRESENT

Shri Hemanand Biswal – CHAIRMAN

MEMBERS

LOK SABHA

2. Shri K. Murugesan Anandan
3. Shri Raj Babbar
4. Shri Shafiqur Rahman Barq
5. Shri Paban Singh Ghatowar
6. Shri Hassan Khan
7. Shri Kaushalendra Kumar
8. Shri P. Lingam
9. Shri Hari Manjhi
10. Shri P.R. Natarajan
11. Shri Ramkishun
12. Shri Mahendra Kumar Roy
13. Shri Chandu Lal Sahu
14. Dr. Virendra Kumar

RAJYA SABHA

15. Dr. E.M. Sudarsana Natchiappan
16. Shri Rudra Narayan Pany
17. Smt. Renubala Pradhan
18. Shri Rajaram
19. Shri Praveen Rashtrapal

20. Shri G.N. Ratanpuri
21. Shri Ranbir Singh Parjapati

SECRETARIAT

1. Shri B.S. Dahiya - Director
2. Shri Ashok Sajwan - Additional Director

Witnesses

Ministry of Labour and Employment

Sl.No.	Name of the Officer	Designation
1.	Shri P.C. Chaturvedi	Secretary (L&E)
2.	Shri Ravi Mathur	Additional Secretary
3.	Dr. Vinita Kumar	Labour & Employment Adviser
4.	Shri A.C. Pandey	Joint Secretary
5.	Shri N.K. Prasad	Chief Labour Commissioner (Central)
6.	Shri K.M. Gupta	Economic Adviser
7.	Shri Satish Puri	DGMS
8.	Shri A.K. Sinha	Director of Mines Safety
9.	Shri B.P. Singh	Director of Mines Safety

2. At the outset, the Chairman welcomed the representatives of the Ministry of Labour & Employment to the sitting of the Committee convened to have briefing by them on 'The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments) Amendment Bill, 2011' and the 'The Mines (Amendment) Bill, 2011'. After introduction by the representatives of the Ministry, the Committee first took up "The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments) Amendment Bill, 2011".

3. XX XX XX

4. XX XX XX

5. Some Members suggested that the Committee hear the views of Trade Unions on the proposed amendments before suggesting amendments to the Bill.

6. The Committee then took up 'The Mines (Amendment) Bill, 2011'. The Committee were briefed about the proposed amendments in the Bill with the help of power point presentation.

Members sought clarifications on the amendments. The Secretary responded to the queries of the Chairman and members.

7. The main discussion on the 'The Mines (Amendment) Bill, 2011' was held on the following points:-

- (i) Working conditions of the off shore workers.
- (ii) Need to disburse the amount collected from fines as compensation to the victims of a mishap.
- (iii) Need to increase penalty and imprisonment to the convicts in case of loss of life.
- (iv) Need to clarify 'person who has ultimate control over affairs' under newly inserted sec 76(a).
- (v) Need to set the time frame for notifying the regulation under section 58.
- (vi) Need to give negative points to those employers who violate labour laws, against whom charges are framed and are penalized while determining the eligibility for grant of a new license or renewal of license etc. and such information to be put up on the website.

8. The Members were unanimously of the view that the Committee should undertake a study visit, preferably in the last week of May, 2011 or first week of June, 2011 to some major mines including oil mines in Bihar, Chhattisgarh and Gujarat so as to interact with the mine workers and mine owners in order to enable them to formulate an objective Report on the Bill. The Chairman concurred with the views of the Members and directed the Committee Secretariat to prepare a tentative study visit programme covering coal, oil and iron mines.

9. A copy each of List of Points relating to proposed amendments in both the Bills was handed over to the Secretary for furnishing replies thereto to the Committee, within a week.

The witnesses then withdrew.

10. A copy of the verbatim proceedings was kept for record.

The Committee then adjourned.

XX--Do not pertain to this report.

MINUTES OF THE SITTING OF THE STANDING COMMITTEE ON LABOUR HELD ON 11TH MAY, 2011.

The Committee met from 1130 hrs. to 1300 hrs. in Committee Room `B', Parliament House Annexe, New Delhi to hear the views of the Central Trade Unions on the (i) "The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments) Amendment Bill, 2011" and (ii) "The Mines (Amendment) Bill, 2011".

PRESENT

Shri Hemanand Biswal – CHAIRMAN

**MEMBERS
LOK SABHA**

2. Shri K. Murugesan Anandan
3. Shri Raj Babbar
4. Shri Shafiqur Rahman Barq
5. Dr. Kakoli Ghosh Dastidar
6. Shri Kaushalendra Kumar
7. Shri P. Lingam
8. Shri Hari Manjhi
9. Shri P.R. Natarajan
10. Shri S. Pakkirappa
11. Shri P.L. Punia
12. Shri Ramkishun
13. Shri Mahendra Kumar Roy
14. Dr. Virendra Kumar

RAJYA SABHA

15. Dr. E.M. Sudarsana Natchiappan
16. Shri Rudra Narayan Pany
17. Smt. Renubala Pradhan
18. Shri Rajaram
19. Shri Praveen Rashtrapal
20. Shri G.N. Ratanpuri
21. Shri Ranbir Singh Parjapati

SECRETARIAT

1. Shri Devender Singh - Joint Secretary
2. Shri B.S. Dahiya - Director
3. Shri Ashok Sajwan - Additional Director

Witnesses

LIST OF THE REPRESENTATIVES OF CENTRAL TRADE UNIONS

Sl.No.	Name of the Central Trade Union	Name of the Representative
1.	Bhartiya Mazdoor Sangh	(i) Shri Shyam Sunder Sharma (ii) Shri Barun Kumar Sinha
2.	Centre of Indian Trade Unions	Shri A.K. Padmanabhan, President
3.	All India United Trade Union Centre	Shri R.K. Sharma Member, AIUTUC
4.	Hind Mazdoor Sabha	Comrade R.A. Mital, National Secretary

2. At the outset, the Chairman welcomed the representatives of the Central Trade Unions to the sitting of the Committee convened to hear their views on 'The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments) Amendment Bill, 2011' and the 'The Mines (Amendment) Bill, 2011' and also drew their attention to Direction 55 of Directions by the Speaker, Lok Sabha. The Chairman, thereafter, sought their views

on the various provisions of 'The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments) Amendment Bill, 2011' in the first instance.

3. XX XX XX

4. The representatives of the Trade Unions expressed their views and gave their suggestions on various provisions of the 'The Mines (Amendment) Bill, 2011' as under:-

- (i) Non-inclusion of health and safety and other measures for improving the working conditions.
- (ii) Restriction for the foreign investment in mine operations.
- (iii) Special Economic Zone (SEZ) and Export Promotion Zone (EPZ) have been left out.
- (iv) Exclusion of 'Manager' in Section-2 of Clause 'C' of the Principal Act, reasons not given.
- (v) In Clause (1) of the Principal Act the definition of 'Owner' has been amended restricting to a 'person or authority having ultimate control'. Such restricted meaning assigned the term owner certainly excludes the other important authorities, who have been authorized by the owner to manage the various activities of the mines.
- (vi) In the amendment sought for enhancing the penalties and punishment the words 'five hundred rupees' has been replaced by inserting 'Rupees fifty thousand'. The amendment

had not been proposed keeping in view the gravity of offence, hence it should be at least Rupees one lakh.

5. The queries raised by members, pertaining to both the Bills, were also responded to by the representatives of Trade Unions.

6. The Chairman then thanked the representatives of Trade Unions for giving valuable suggestions on both the Bills.

The witnesses then withdrew.

7. A copy of the verbatim proceedings was kept for record.

The Committee then adjourned.

**MINUTES OF THE SITTING OF THE STANDING COMMITTEE ON
LABOUR HELD ON 19TH MAY, 2011.**

The Committee met from 1130 hrs. to 1300 hrs. in Committee Room `D', Parliament House Annexe, New Delhi to hear the views of the Central Trade Unions on the (i) "The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments) Amendment Bill, 2011" and (ii) "The Mines (Amendment) Bill, 2011".

PRESENT

Shri Hemanand Biswal – CHAIRMAN

**MEMBERS
LOK SABHA**

2. Shri K. Murugesan Anandan
3. Shri Shafiqur Rahman Barq
4. Shri Kaushalendra Kumar
5. Shri P. Lingam
6. Shri Hari Manjhi
7. Shri P.R. Natarajan
8. Smt. Mausam Noor
9. Shri S. Pakkirappa
10. Shri Ramkishun
11. Dr. Virendra Kumar

RAJYA SABHA

12. Shri Aayanur Manjunatha
13. Dr. E.M. Sudarsana Natchiappan
14. Shri Rudra Narayan Pany
15. Smt. Renubala Pradhan
16. Shri Rajaram
17. Shri G.N. Ratanpuri
18. Shri Ranbir Singh Parjapati

SECRETARIAT

1. Shri Devender Singh - Joint Secretary
2. Shri B.S. Dahiya - Director
3. Shri Ashok Sajwan - Additional Director

Witnesses

(A) REPRESENTATIVES OF CENTRAL TRADE UNIONS

1. Indian National Trade Union Congress (INTUC) Shri G.B. Nagpure, (Safety Expert)
2. All India Trade Union Congress Shri H. Mahadevan, Dy. General Secretary

(B) REPRESENTATIVES OF FICCI

1. Shri Ravi Wig, Member
2. Shri H.S. Tandon, Member Executive

(C) LIST OF THE REPRESENTATIVES OF CII

1. Shri B. Muthuraman, President, CII
2. Shri Sushanta Sen, Principal Advisor
3. Dr. Sarita Nagpal, Dy. Director General
4. Shri Sunil Mishra, Director
5. Shri Shreeram Lakshman, Deputy Director
6. Shri Sanjay Tripathi, DGM-HRD
7. Shri Sanjay Kumar, Senior Manager (Legal), Teamlease Services

2. At the outset, the Chairman welcomed the representatives of the Central Trade Unions to the sitting of the Committee convened to hear their views on 'The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments)

Amendment Bill, 2011' and the 'The Mines (Amendment) Bill, 2011' and also drew their attention to Direction 55 of Directions by the Speaker, Lok Sabha. The Chairman, thereafter, sought their views on the various provisions of the Bills, one by one.

3. No comments were offered by FICCI on 'The Mines (Amendment) Bill, 2011'.

The witnesses then withdrew.

The views of CII on 'The Mines (Amendment) Bill, 2011' were:

Views of CII:-

- (i) The definition of owner in the Act be made as in the Companies Act in Section 5 which defines a certain delegation of authority and responsibility.
- (ii) The definition of the ownership and accordingly whatever offences are made should be in line with the ownership definition.

4. The queries raised by the Members on both the Bills, were also responded to by the representatives of the Trade Unions and the representatives of the federations of industry.

5. The Chairman thanked the representatives of the Trade Unions and the representatives of the federation of industry for giving valuable suggestions on both the Bills before they withdrew.

6. A copy of the verbatim proceedings was kept for record.

The Committee then adjourned.

**MINUTES OF THE SITTING OF THE STANDING COMMITTEE ON
LABOUR HELD ON 30TH MAY, 2011.**

The Committee met from 1130 hrs. to 1230 hrs. in Committee Room `B', Parliament House Annexe, New Delhi to hear the views of the representatives of (i) Trade Unions and (ii) Federation of Indian Micro and Small & Medium Enterprises on `The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments) Amendment Bill, 2011' and `The Mines (Amendment) Bill, 2011'.

PRESENT

Shri Hemanand Biswal – CHAIRMAN

MEMBERS

LOK SABHA

2. Shri K. Murugesan Anandan
3. Shri Shafiqur Rahman Barq
4. Shri Hassan Khan
5. Shri Kaushalendra Kumar
6. Shri Hari Manjhi
7. Shri P. Balram Naik
8. Shri P.R. Natarajan
9. Shri P. L. Punia
10. Shri Ramkishun
11. Dr. Virendra Kumar

RAJYA SABHA

12. Shri Aayanur Manjunatha
13. Dr. E.M. Sudarsana Natchiappan
14. Shri Rudra Narayan Pany
15. Smt. Renubala Pradhan
16. Shri Rajaram
17. Shri Ranbir Singh Parjapati

SECRETARIAT

1. Shri Ashok Sajwan - Additional Director

Witnesses

LIST OF THE REPRESENTATIVES OF TRADE UNIONS

Sl. No	Name of the Central Trade Union	Name of the Representative
1.	All India Central Council of Trade Unions (AICCTU)	Shri Santosh Roy, National Secretary
2.	Trade Union Coordination Centre	Shri S.P. Tiwari, General Secretary
3.	National Front of Indian Trade Unions	Shri S.K. Mishra, Vice President
4.	Federation of Indian Micro and Small & Medium Enterprises	(i) Shri Naveen Jain-CEC Member & Former Treasurer (ii) Shri V.N. Sastry-Joint Secretary (Projects)
5.	Labour Progressive Federation	Shri C. Kuppusami, Ex-MP, President
6.	United Trades Union Congress (UTUC)	Shri Abani Roy, President

2. At the outset, the Chairman welcomed the representatives of the Central Trade Unions to the sitting of the Committee convened to hear their views on 'The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments) Amendment Bill, 2011' and the 'The Mines (Amendment) Bill, 2011' and also drew their attention to Direction 55 of Directions by the Speaker, Lok Sabha. The Chairman, thereafter, sought their views on the various provisions of 'The Labour Laws (Exemption from furnishing returns and maintaining registers by certain establishments) Amendment Bill, 2011' in the first instance.

3. XX XX XX

Views of FISME:-

Welcomed the amendments as suggested in the Bill.

4. The representatives of the Trade Unions expressed their views and gave their suggestions on various provisions of the 'The Mines (Amendment) Bill, 2011' as under:-

Views of Trade Unions:-

- (i) Punishments needs to be increased.
- (ii) The proposed amendments should not help in reducing the responsibility of the owners and management of any level.

Views of FISME:-

The FISME while supporting the Bill and stated that they will sent their views in fifteen days in writing.

- 5. The queries raised by members, pertaining to both the Bills, were also responded to by the representatives of Trade Unions.
- 6. The Chairman then thanked the representatives of Trade Unions for giving valuable suggestions on both the Bills.

The witnesses then withdrew.

- 7. A copy of the verbatim proceedings was kept for record.

The Committee then adjourned.

**MINUTES OF THE SITTING OF THE STANDING COMMITTEE ON
LABOUR HELD ON 14TH DECEMBER, 2011.**

The Committee met from 1500 hrs. to 1600 hrs in Room No.116, Parliament House Annexe, New Delhi to consider and adopt the draft Reports on 'The Mines (Amendment) Bill, 2011' and 'The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Amendment Bill, 2011' of the Ministry of Labour and Employment.

PRESENT

Shri Hemanand Biswal - Chairman

MEMBERS

LOK SABHA

2. Dr. Virendra Kumar
3. Shri Pakauri Lal
4. Shri Narahari Mahato
5. Shri Hari Manjhi
6. Shri P. Balram Naik
7. Shri Jayaram Pangi
8. Shri S. Pakkirappa
9. Shri Mahendra Kumar Roy
10. Ms. J. Shantha
11. Shri Bhausahab Rajaram Wakchaure

RAJYA SABHA

22. Shri D. Bandyopadhyay
23. Shri Mohd. Ali Khan
24. Shri Aayanur Manjunatha
25. Dr. E.M. Sudarsana Natchiappan
26. Smt. Renubala Pradhan
27. Shri G.N. Ratanpuri

SECRETARIAT

- | | | | |
|----|-----------------------|---|---------------------|
| 1. | Shri Devender Singh | - | Joint Secretary |
| 2. | Shri Ashok Sajwan | - | Additional Director |
| 3. | Shri Arvind Sharma | - | Deputy Secretary |
| 4. | Smt. Bharti S. Tuteja | - | Under Secretary |

2. At the outset, the Chairman welcomed the Members and apprised them about the draft Reports on 'The Mines (Amendment) Bill, 2011' and 'The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Amendment Bill, 2011'

3. The Committee took up the draft Reports for consideration. The Committee adopted the draft Reports without any modification.

4. The Committee then authorized the Chairman to present the same to both the Houses of Parliament.

The Committee then adjourned.

