Issues for Consideration:
The Mines and Minerals (Development and Regulation) Amendment Bill, 2026

The Mines and Minerals (Development and Regulation) Amendment Bill, 2026 was introduced in Lok Sabha on August 10, 2026. This note discusses its key features and certain issues to consider.

Context

Under the Constitution, Parliament has the power to regulate mines and mineral development, to the extent Parliament declares such regulation expedient in the public interest by law (Entry 54 of Union List). States have the power to regulate mines and mineral development, subject to the provisions of the Union List (Entry 23 of the State List). States also have the power to tax mineral rights, subject to any limitations imposed by Parliament by law relating to mineral development (Entry 50 of the State List).

The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) is the principal central law governing the development and regulation of mines and minerals.[1] The Act allows the central government to regulate mines and mineral development in public interest. It also empowers the central government to make rules for the conservation and systematic development of minerals. The Act distinguishes between major minerals, regulated by the central government, and minor minerals, regulated by state governments. Under the Act, mineral concessions such as prospecting licenses and mining leases are granted by the state governments, and follow rules and auction processes set by the central government. The central government also fixes royalty rates, which the states collect from the lessees.

In 2024, the Supreme Court examined whether: (i) royalty collected on mining activities under the MMDR Act, 1957 qualifies as a tax, (ii) states' power to tax land and building extends to mineral bearing land, and (iii) Parliament can limit the state legislature's powers to impose taxes on mines and minerals.[2] The Court held that royalty is not a tax. It is a payment that arises out of the contractual obligation to enjoy mineral rights. The Court also held that state legislatures have the legislative power to tax mineral rights. However, states' powers to tax mineral rights can be limited by an Act of Parliament, which may include a prohibition also (Entry 50 of State List). The Court noted that the MMDR Act, 1957 does not place any such restrictions. The Court also held that states' power to tax land (Entry 49 of the State List) extends to mines and quarries. Such lands can be taxed based on mineral value or produce. Parliament cannot limit states' powers to tax mineral bearing lands.

The Mines and Minerals (Development and Regulation) Amendment Bill, 2026 provides for restrictions on states' powers to tax mineral rights and mineral bearing lands. The Statement of Objects and Reasons of the Bill notes that uneven imposition of taxes and other levies by states in the absence of reasonable limitations has led to several issues. These include: (i) a heavy tax burden on the mining sector, (ii) unpredictable introduction of taxes, cess and other levies after commencement of mining operations, (iii) multiple taxes and levies on mineral production or dispatch, (iv) non-uniform rates across states, and (v) retrospective imposition of such taxes and levies. It states that these issues increase the cost of mining, discourage mineral extraction, and may make operations commercially unviable. The Bill seeks to address these issues.

Key Features

- **Regulation of mineral bearing lands:** The Act empowers the central government to control regulation of mines and development of minerals. The Bill adds that the central government will also be empowered to regulate mineral bearing lands. Mineral bearing land is defined as any land having mineral contents in accordance with parameters prescribed by the central government.
- **Restriction on levies by states**: The Bill prohibits a state government from imposing specified levies, except in accordance with conditions or restrictions prescribed by the central government. This applies to any tax, cess, or other such levy on: (i) mineral rights, or (ii) mineral bearing lands, whether based on mineral quantity, mineral value, royalty or otherwise. Unpaid or unrecovered dues of any such state levies from before the commencement of the Amendment Act, will be deemed invalid. However, any such levies already deposited or recovered will not be liable to be refunded.

Vaishali Dhariwal
vaishali@prsindia.org

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Issues to consider

Parliament may not have the legislative competence to regulate mineral bearing land

Act: Sections 2, 3

Bill: Clauses 2, 3, 4

Under the MMDR Act, 1957 the central government controls the regulation of mines and development of minerals in public interest. The Bill adds that mineral bearing lands will also be under central government's control. Such land is defined as land with mineral content meeting prescribed parameters. The Bill also prohibits states from levying any tax or cess on mineral rights or mineral bearing land, except in accordance with conditions or restrictions prescribed by the central government. This includes any levy based on mineral quantity, value or royalty. Parliament may not have the legislative competence to regulate mineral bearing lands.

Land is a state subject under Entry 18 of the State List. State legislatures also have the power to tax land (Entry 49 of the State List). They can also tax mineral rights subject to limitations imposed by Parliament by law (Entry 50 of State List). The Supreme Court (2024) has held that mineral bearing land falls within the description of lands under Entry 49, and that states may tax such land using the quantity of minerals produced or the royalty payable as the measure of the tax.[2] It further held that Parliament may, through a law relating to mineral development, impose limitations on states' power to tax mineral rights under Entry 50. However, this power does not extend to states' power to tax land under Entry 49.[2]

Entry 54 of the Union List enables Parliament to regulate mines and mineral development. However, the Supreme Court has clarified that Entry 54 is a general regulatory power, and Parliament's power to impose limitations under a mineral development law operates only on the taxation of mineral rights (Entry 50), not on the taxation of land (Entry 49).[2]

Retrospective application of the Bill may be unconstitutional

Bill: Clause 4

The Bill provides that unpaid or unrecovered dues of any state levies on mineral rights or mineral bearing lands from before the commencement of the Amendment Act will be deemed invalid. However, any such amount already deposited or recovered will not be liable to be refunded. Two issues stem from such retrospective application.

Negating the Supreme Court's 2024 directions may be unconstitutional

In its 2024 judgment, the Supreme Court held that states have the power to impose taxes on mineral rights and mineral bearing land.[2] The Court directed that tax demands could be raised for the period beginning April 1, 2005, subject to a phased payment schedule. The Bill would invalidate, retrospectively, such levies that had not been deposited with or recovered by a state before the commencement of the Bill.

The Supreme Court (1993) has held that Parliament can retrospectively change the law and thereby alter the basis on which a previous judgment operated, provided it has legislative competence and actually removes the legal basis of the judgment.[3] The Court held that Parliament cannot render a judicial decision ineffective by simply making a law that declares it to be invalid or non-binding.[3] Such an action would be encroachment by the legislature upon the domain of the judiciary. By overriding the Court's directions retrospectively without altering the basis of the judgement, the Bill may violate this principle.

Treating entities unequally regarding tax liabilities may violate Article 14 of the Constitution

Under the Bill, mining companies that had to pay any mining related dues are not required to pay them. However, companies that have already paid such dues cannot recover them back. Thus, the Bill may be treating mining companies that had tax dues differently on grounds of whether they paid their dues or delayed such payments. This may violate Article 14 of the Constitution. It may be argued that the provision is arbitrary as it provides relief to persons who had not paid their liability, while denying similar relief to those who had complied with the law.

Delegating the restrictions on state taxation may be excessive

Bill: Clause 4

The Bill bars states from taxing mineral rights or mineral bearing lands. This includes any levy based on mineral quantity, value, or royalty. States may only do so in accordance with conditions or restrictions prescribed by the central government.

Under Entry 50 of the State List, state legislatures can regulate taxes on mineral rights subject to any limitations imposed by Parliament by law. The Bill restricts states from levying taxes on mineral rights and mineral bearing lands, and provides that they can levy such taxes only as per conditions or restrictions prescribed by the central government. Determining the extent to which states may exercise their taxation powers under Entry 50 may be considered a matter of legislative policy.

The Supreme Court (1951) has held that the essential legislative function cannot be delegated, and that the legislature must itself determine the legislative policy and principle, while only ancillary matters may be left to the executive.[4] The absence of any guiding principles in the Bill on how these conditions and restrictions are to be framed may therefore amount to excessive delegation.

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1. Mines and Minerals (Development and Regulation) Act, 1957, https://www.indiacode.nic.in/bitstream/123456789/19380/1/mmdr_act%2C1957.pdf.
2. Mineral Area Development Authority vs Steel Authority of India Limited, the Supreme Court of India, July 25, 2024 https://api.sci.gov.in/supremecourt/1999/9012/9012_1999_1_1501_54138_Judgement_25-Jul-2024.pdf.
3. State of Haryana and Others vs Karnal Co-Op Farmers' Society Limited, the Supreme Court of India, March 4, 1993, https://sapi.sci.gov.in/jonew/judis/12161.pdf.
4. Re Delhi Laws Act, 1912, the Supreme Court of India, May 23, 1951. https://api.sci.gov.in/jonew/judis/1184.pdf.