

COMMITTEE ON SUBORDINATE LEGISLATION
(2021-2022)

(SEVENTEENTH LOK SABHA)

TWENTY THIRD REPORT

**ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/
RECOMMENDATIONS CONTAINED IN THE ELEVENTH REPORT OF THE
COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTEENTH LOK SABHA)
ON "THE MINERALS (NON-EXCLUSIVE RECONNAISSANCE PERMITS) RULES,
2015"**



LOK SABHA SECRETARIAT
NEW DELHI
August, 2022/ Shravana, 1944 (Saka)

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2015**

(PRESENTED TO LOK SABHA ON 04.08.2022)



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2022/ Shravana, 1944 (Saka)

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MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(2021-2022)

Shri Balashowry Vallabhaneni Chairperson

Members

2. Shri Jyotirmay Singh Mahato
3. Shri Pinaki Mishra
4. Shri Chandeshwar Prasad
5. Shri N.K.Premachandran
6. Shri Suresh Kumar Pujari
7. Shri A.Raja
8. Shri Nama Nageshwara Rao
9. Shri Sanjay Seth
10. Shri Mahendra Singh Solanky
11. Shri Su Thirunavukkarasar
12. Shri. Manickam Tagore B.
13. Shri Ram Kripal Yadav
14. Dr. Amar Singh
15. Vacant

SECRETARIAT

- | | | | |
|----|---------------------------|---|---------------------|
| 1. | Shri Vinay Kumar Mohan | - | Joint Secretary |
| 2. | Shri Muraleedharan.P | - | Director |
| 3. | Smt. Jagriti Tewatia | - | Additional Director |
| 4. | Shri S..Lalengzau Ngaihte | - | Under Secretary |

INTRODUCTION

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the Report on their behalf, present this Twenty Third Report.

2. This Report relates to the action taken on the Observations/ Recommendations of the Committee contained in the Eleventh Report (2020-2021) (Seventeenth Lok Sabha) which was presented to Lok Sabha on 23.03.2021.

3. The Committee considered and adopted this Report at their sitting held on 25.07.2022.

4. The summary of recommendations contained in the Eleventh Report and action taken reply of the Government thereon have been reproduced in Part-II Appendix-I of the Report.

5. The Extracts of the Minutes of the 28th sitting of the Committee relevant to this Report are brought out in Appendix II of the Report.

6. An analysis of the action taken by Government on the Recommendations contained in the Eleventh Report of the Committee (Seventeenth Lok Sabha) is given in Appendix III of the Report.

New Delhi;
25 July, 2022
03 Shravana, 1944 (Saka)

BALASHOWRY VALLABHANENI
Chairperson,
Committee on Subordinate Legislation

REPORT

This Report of the Committee on Subordinate Legislation (2021-2022) deals with the action taken by the Government on the Observations/Recommendations contained in the Eleventh Report (Seventeenth Lok Sabha) of the Committee which was presented to Lok Sabha on 23.03.2021. The Eleventh Report dealt with the Rules pertaining to "The Minerals (Non-exclusive Reconnaissance Permits) Rules, 2015.

2. The shortcomings observed on the above Rules and the Observations/Recommendations made by the Committee in respect of these shortcomings are contained in Paras No. 8 to 11 of the Eleventh Report (17th Lok Sabha). The Report, after presentation was forwarded to the Ministry of Mines for implementation of the recommendations contained therein. The Ministry of Mines vide their OM No. 16/25/2020-M.VI dated 17th November, 2021 furnished their action taken replies on all the Observations/Recommendations contained in the Report. A statement showing the Observations/Recommendations made by the Committee and Action Taken by the Government on the same is given in Part II of the Report.

3. Replies to the observations/recommendations contained in the Report have broadly been categorized as follows:-

- | | | |
|-------|--|-----------|
| (i) | Observations/Recommendations which have been accepted by the Government | |
| | Sl. Nos. 8 to11 | Total 4 |
| (ii) | Observation/Recommendation which the Committee do not desire to pursue in view of the Government's reply. | |
| | Sl.No. Nil | Total Nil |
| (iii) | Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee | |
| | Sl. No. Nil | Total Nil |
| (iv) | Observation/Recommendation in respect of which final reply of the Government is still awaited | |
| | Sl. No. Nil | Total Nil |

4. The main Observations/Recommendations made by the Committee in its Eleventh Report (17th Lok Sabha) pertaining to "The Minerals (Non-exclusive Reconnaissance Permits) Rules, 2015" (Seventeenth Lok Sabha) and the action taken thereon by the Ministry of Mines are briefly as follows:-

Notification for grant of Mining Lease and Refund of Fee

5. The Committee noted that Rule 3(11) of the Minerals (Non-exclusive Reconnaissance Permits) Rules, 2015 provides that, the grant of non-exclusive reconnaissance permit (NERP) over any area shall not prohibit the State Government from notifying all or any part of such area for grant of a mining lease or a prospecting license-cum-mining lease and upon such notification the validity of all non-exclusive reconnaissance permit over such notified area will stand automatically terminated. The Rule is silent about the refund of fee made as per Rule 3(5), in case where the non-exclusive reconnaissance permit (NERP) stand automatically terminated because of the area being notified by the State Government for grant of mining lease or a prospecting license-cum- mining lease. On being pointed, the Ministry have submitted that, since the permits are of non-exclusive in nature as well as the Government incur administrative expenditure for processing administrative work, a decision was arrived at for not refunding any fee paid towards the NERP. The Committee, have been of the firm view that since the Government was clear about non-refund of fee it should have been clearly reflected in the Rules itself that, no refund of fee made under Rule 3(5) shall be made in case the NERP gets automatically terminated. The Committee have felt that by doing so, the Rules will be more transparent and void of any confusion and litigation. The Committee have however, noted that when the same was pointed out to the Ministry of Mines, the Ministry have submitted that, they may not have any objection in incorporating a provision regarding non-refund of the fee into the Rules. The Committee, therefore, while expressing their satisfaction have recommended that the Ministry should bring in suitable amendment in the Rules expeditiously to make them self contained and notify the same. **(Para No.8-10)**

Minimum time period under sub-rule (11) of Rule 3

6. The Committee have also noted that for prescribing a minimum time period under sub-rule (11) of Rule 3 of the Order, during which the State Government may not notify the area for grant of mining lease or a prospecting License-cum-Mining lease, the Ministry have submitted that the same may not be appropriate as grant of re-connaissance permit is non-exclusive which does not preclude grant of PL (Prospecting License) or ML (Mining Lease) over any part of the area under NERP. The Committee have been apprehensive that, in absence of any provision for refund of fee made under Rule 3(5) or security of tenure or for benefit of getting priority of seamless transition to get PL or ML to the NERP holder, there would be virtually very less competition for seeking NERP especially from Private players resulting in less competitive bidding for the same. The Committee, have however,

expressed their satisfaction that on expressing their apprehension to the Ministry of Mines, the Ministry in their reply have submitted that, the “MMDR Act,1957 has been amended through the Minerals Laws (Amendment) Ordinances, 2020 to insert, inter-alia a new proviso under section 10(C)(2), for incentivizing a non-exclusive reconnaissance permits holders, who carries out prescribed level of exploration in respect of deep seated minerals or any mineral of national interest as prescribed by the Central Government. NERP Rules are being framed to give effect to the said amendment.” The Committee, have therefore, recommended that the NERP Rules may be framed in a time bound manner and laid on the Table of both Houses. The conclusive action taken in this regard may also be apprised to the Committee. **(Para No.11)**

7. The Ministry of Mines in their Action Taken Reply submitted that the provision relating to Grant of Non-Exclusive Reconnaissance Permits i.e. Section 10C of the pre-amended Act has been omitted through the MMDR Amendment Act,2021 Accordingly, Ministry of Mines vide notification number G.S.R.438(E) dated 25.06.2021 has rescinded the NERP Rules, 2015 (Annexure).

8. The Committee are satisfied to note that the Ministry of Mines have resolved to rectify the shortcomings pointed out to them and have amended the provision relating to Grant of Non-Exclusive Reconnaissance Permits i.e. Section 10C of the pre-amended Act by omitting it through the MMDR Amendment Act, 2021. The Ministry further submitted that Gazette Notification number G.S.R. 438(E) dated 25.06.2021 has been issued and rescinded the NERP Rules, 2015. A statement showing the Action Taken by the Government on the Recommendations contained in the Eleventh Report (17th LS) is given in Part-II.

New Delhi;
25 July, 2022
03 Shravana, 1944 (Saka)

BALASHOWRY VALLABHANENI
Chairperson,
Committee on Subordinate Legislation

Annexure

MINISTRY OF MINES

NOTIFICATION

New Delhi, the 25th June, 2021

G.S.R. 438(E).—In exercise of the powers conferred by section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) read with section 21 of the General Clauses Act, 1897 (10 of 1897), the Central Government hereby rescinds the notification of the Government of India in the Ministry of Mines number G.S.R. 516(E), dated the 29th June, 2015 relating to the Mineral (Non-Exclusive Reconnaissance Permits) Rules, 2015, published in Gazette of India, Part II, section 3, sub-section (i), dated the 29th June, 2015, except as respects things done or omitted to be done before such rescission, with effect from the date of publication of this notification.

[F. No. 1/3/2021-M.VI(Part)]

Dr. VEENA KUMARI DERMAL, Jt. Secy.

Note : The Mineral (Non-Exclusive Reconnaissance Permits) Rules, 2015 were published in Gazette of India, Part II, section 3, sub-section (i) vide number G.S.R. 516(E) dated the 29th June, 2015.

PART-II
(APPENDIX-I)

(Vide Para 4 of the Introduction of the Report)

STATEMENT SHOWING THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/RECOMMENDATIONS CONTAINED IN THE ELEVENTH REPORT OF THE COMMITTEE (17th LOK SABHA) ON "THE MINERALS (NON-EXCLUSIVE RECONNAISSANCE PERMITS) RULES, 2015".

The Minerals (Non-Exclusive Reconnaissance Permits) Rules, 2015.

Observations/ Recommendations of the Committee

The Committee note that Rule 3(11) of the Minerals (Non-exclusive Reconnaissance Permits) Rules, 2015 provides that, the grant of non-exclusive reconnaissance permit (NERP) over any area shall not prohibit the State Government from notifying all or any part of such area for grant of a mining lease or a prospecting license-cum-mining lease and upon such notification the validity of all non-exclusive reconnaissance permit over such notified area will stand automatically terminated.

[Para 8 of the Report]

The Committee also note that on scrutiny of the Rule, it is observed that the rule is silent about the refund of fee made as per Rule 3(5), in case where the non-exclusive reconnaissance permit (NERP) stand automatically terminated because of the area being notified by the State Government for grant of mining lease or a prospecting license-cum- mining lease. On being pointed out to the Ministry of Mines, the Ministry have submitted that, since the permits are of non-exclusive in nature as well as the Government incur administrative expenditure for processing administrative work, a decision was arrived at for not refunding any fee paid towards the NERP.

[Para 9 of the Report]

The Committee are, however, of the firm view that since the Government is clear about non-refund of fee it should have been clearly reflected in the Rules itself that,

no refund of fee made under Rule 3(5) shall be made in case the NERP gets automatically terminated. The Committee feel that by doing so, the Rules will be more transparent and void of any confusion and litigation. The Committee, however, note that when the same was pointed out to the Ministry of Mines, the Ministry have submitted that, they may not have any objection in incorporating a provision regarding non-refund of the fee into the Rules. The Committee, therefore, while expressing their satisfaction may like to recommend that the Ministry should bring in suitable amendment in the Rules expeditiously to make them self contained and notify the same. The Committee may also be apprised of the final action taken in this regard.

[Para 10 of the Report]

The Committee also note that for prescribing a minimum time period under sub-rule (11) of Rule 3 of the Order, during which the State Government may not notify the area for grant of mining lease or a prospecting License-cum- Mining lease, the Ministry have submitted that the same may not be appropriate as grant of reconnaissance permit is non-exclusive which does not preclude grant of PL (Prospecting License) or ML (Mining Lease) over any part of the area under NERP. The Committee while finding the reply furnished by the Ministry quite evasive may also be apprehensive that in absence of any provision for refund of fee made under Rule 3(5) or security of tenure or for benefit of getting priority of seamless transition to get PL or ML to the NERP holder, there would be virtually very less competition for seeking NERP especially from Private players resulting in less competitive bidding for the same. The Committee, however, express their satisfaction that on expressing their apprehension to the Ministry of Mines, the Ministry in their reply have submitted that, the "MMDR Act,1957 has been amended through the Minerals Laws (Amendment) Ordinances, 2020 to insert, inter-alia a new proviso under section 10(C)(2), for incentivizing a non-exclusive reconnaissance permits holders, who carries out prescribed level of exploration in respect of deep seated minerals or any mineral of national interest as prescribed by the Central Government. NERP

Rules are being framed to give effect to the said amendment.” The Committee, therefore, like to recommend that the NERP Rules may be framed in a time bound manner and laid on the Table of both Houses. The conclusive action taken in this regard may also be apprised to the Committee.

[Para 11 of the Report]

REPLY OF THE MINISTRY

Mines and Minerals (Development and Regulation)(MMDR) Act,1957 has recently been amended through the MMDR Amendment Act,2021, which has been notified in the official gazette on 28.03.2021.

In this context, it is to inform that the provision relating to Grant of Non-Exclusive Reconnaissance Permits i.e. Section 10C of the pre-amended Act has been omitted through the MMDR Amendment Act,2021. Accordingly, Ministry of Mines vide Notification number G.S.R. 438(E) dated 25.06.2021 has rescinded the NERP Rules, 2015.

Ministry of Mines O.M.No.16/25/2020-M.VI Dated: 17 November, 2021

APPENDIX II

(Vide Para 5 of the Introduction of the Report)

EXTRACTS FROM MINUTES OF THE TWENTY-EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2021-2022)

The Twenty-eighth sitting of the Committee (2021-22) was held on Monday, the 25th July, 2022 from 1500 to 1700 hours in Committee Room No. 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Balashowry Vallabhaneni Chairperson

MEMBERS

2. Shri Chandeshwar Prasad
3. Shri N.K. Premachandran
4. Shri Suresh Kumar Pujari
5. Shri A. Raja
6. Shri Nama Nageswara Rao
7. Shri Sanjay Seth

SECRETARIAT

1. Shri V.K.Mohan - Joint Secretary
2. Shri Muraleedharan P. - Director
3. Smt. Jagriti Tewatia - Additional Director

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. The Committee then considered the following draft Reports:-

- (i) XX XX XX XX
- (ii) XX XX XX XX

(iii) XX XX XX XX

(iv) XX XX XX XX

(v) Twenty-third Report on action Taken by the Government on the Observations / Recommendations contained in the 11th Report of the Committee on Subordinate Legislation (17th Lok Sabha) on ‘the Minerals (Non-Exclusive Reconnaissance Permits) Rules,2015”

3. After deliberations, the Committee adopted the above draft Reports without any modification. The Committee also authorized the Chairperson to present the same to the House.

4. XX XX XX XX

5. XX XX XX XX

6. XX XX XX XX

7. XX XX XX XX

8. XX XX XX XX

9. XX XX XX XX

10. XX XX XX XX

11. XX XX XX XX

The Committee then adjourned.

XX Omitted portion of the Minutes are not relevant to this Report

APPENDIX-III

(vide Para 6 of Introduction of the Report)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/RECOMMENDATIONS CONTAINED IN THE ELEVENTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTEENTH LOK SABHA)

I	Total No. of observations/recommendations made	4
II	Recommendations that have been accepted by the Government [vide recommendations at Sl. Nos.8 to 11]	4
	Percentage of total	100%
III	Recommendations which the Committee do not want to pursue in view of Government reply	Nil
	Percentage of total	0%
IV	Recommendations in respect of which replies of the Government have not been accepted by the Committee.	Nil
	Percentage of total	0%
V	Recommendations in respect of which final replies of Government are still awaited	Nil
	Percentage of total	0%