

Chapter 1 - Introduction

1.1 Background

Coal is a natural mineral and one of the largest sources of energy in the world. It is used as a fuel for generation of electricity and for industrial purposes such as refining metals etc. The Indian Constitution has put mines and mineral development at entry 54 of the List I of Seventh Schedule of the Constitution, i.e. Union List. Therefore, the Parliament is competent to legislate for its regulation. Between 1993 and 2011, the Central Government allocated 218 coal blocks through the Screening Committee¹ route and through Government dispensation route². The Comptroller and Auditor General (C&AG) of India in its Performance Audit (PA) Report No. 7 of 2012-13 for the year ended March 2012 highlighted the issues of lack of transparency and objectivity in the allocation process of coal blocks and financial gains of ₹1.86 lakh crore to the private parties, a part of which could have been tapped by the Government by taking timely decision on competitive bidding for allocation of coal blocks. The said report of C&AG of India was under examination of the Public Accounts Committee. The Hon'ble Supreme Court of India in its judgment³ (25 August 2014) held that the allotment of coal blocks made by the Screening Committee of the Government of India (GoI) since 1993, as also the allotments made through the Government dispensation route, were arbitrary and illegal. Thereafter, the Hon'ble Supreme Court pronounced its order on 24 September 2014 and cancelled the allocation of 204 coal blocks. Cancellation in case of 42 coal blocks under 'producing' and 'ready to produce' category was to take effect from 31 March 2015. The remaining 162 coal blocks stood cancelled from the date of the Hon'ble Supreme Court's order. The allottees of the 42 coal blocks were required to pay an amount of ₹295 per metric tonne (PMT) of coal extracted till 31 March 2015, as an additional levy.

After the cancellation of the allocation of the coal blocks by the Hon'ble Supreme Court in September 2014, the GoI, within a short span of time, laid down the framework and successfully auctioned 29 coal mines in two tranches by March 2015.

¹ The Screening Committee consisting of Additional Secretary, Ministry of Coal (MOC) and Advisor (Projects), MOC, Joint Secretary, and Financial Advisor, representatives of Ministry of Railways, Power and the concerned State Government as member was constituted by the Government of India (GoI) in July 1992 for screening proposals received for captive mining by the private power generation companies.

² The direct allocation of coal blocks made by MOC for Public Sector Enterprises for captive use or commercial mining was termed as Government dispensation route.

³ Manohar Lal Sharma V/s the Principal Secretary & Others (Writ Petition (CRL.) No. 120 of 2012)

1.2 Sequence of Events

The sequence of events, subsequent to cancellation of allocation of 204 coal blocks by the Hon'ble Supreme Court, was as given below:

Table 1 : Sequence of Events

Date	Event
21 October 2014	Promulgation of Coal Mines (Special Provisions) Ordinance, 2014 to empower the Government to re-allocate 204 coal blocks cancelled by the Hon'ble Supreme Court
29 October 2014	Pursuant to Section 6 of the Ordinance, the GoI appointed Nominated Authority (NA) to take all the necessary action for allocation of cancelled coal blocks
11 December 2014	Notification of Coal Mines (Special Provisions) Rules, 2014 to operationalise provisions of the said Ordinance
26 December 2014	Promulgation of the Coal Mines (Special Provisions) Second Ordinance, 2014
27 December 2014	Uploading of Standard Tender Document (STD) on MSTC Limited website
14 February 2015 – 22 February 2015	Auction for 1 st tranche
04 March 2015 – 13 March 2015	Auction for 2 nd tranche
30 March 2015	Notification of Coal Mines (Special Provisions) Act, 2015

1.3 Coal Mines (Special Provisions) Ordinance, 2014

Government of India (GoI) promulgated (21 October 2014) an Ordinance 'The Coal Mines (Special Provisions) Ordinance, 2014' with the objective to re-allocate 204 coal blocks cancelled by the Hon'ble Supreme Court and ensure smooth transfer of right, title and interests in the mine along with its land and other associated mining infrastructure to the new allottee to be selected through an auction or allotment to Government companies, as the case may be. The Ordinance provided the legal framework for allocation of the cancelled coal blocks.

GoI introduced a Bill in the Parliament to replace the Ordinance. The Bill was passed in the Lok Sabha and was pending in the Rajya Sabha. Therefore, GoI promulgated the Coal Mines (Special Provisions) Second Ordinance, 2014 on 26 December 2014. Subsequently, the Bill was passed by the Parliament and after receipt of assent of the President, the Coal Mines

(Special Provisions) Act, 2015 (the Act) was notified on 30 March 2015. It was deemed to have come into force from 21 October 2014.

The Ordinance/Act was promulgated/ passed:

- to ensure continuity in coal mining operations and production of coal, and for promoting optimum utilisation of coal resources consistent with the requirement of the country in national interest, and
- to take immediate action to allocate coal mines to successful bidders and allottees keeping in view the energy security of the country and to minimise any impact on core sectors such as steel, cement and power utilities, which are vital for the development of the nation.

1.4 Coal Mines (Special Provisions) Rules, 2014

For carrying out the provisions of the Ordinance promulgated in October 2014 for auction of the coal mines, GoI notified Coal Mines (Special Provisions) Rules, 2014 (the Rules) on 11 December 2014. The Rules laid down enabling provisions for carrying out the auction and allotment processes and prescribed e-auction comprising of technical and financial parameters as the process for conducting auctions, among others.