

Chapter-5

Mines and Mineral Development, Restoration and Rehabilitation Fund

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Bihar District Mineral Foundation Fund

The Government of India (GoI) made the Mines and Minerals (Contribution to District Mineral Foundation) Rules, 2015 effective from 12 January 2015 and prescribed (17 September 2015) the amount of contribution to be made to the District Mineral Foundation (DMF) by the lease holders. The State Government formed (May 2018) Bihar DMF Rules¹, 2018 for the interest and benefit of persons in the areas affected by mining related operations after lapse of 32 months from amendment of MMDR Act by GoI.

As per Rule 11 of Bihar DMF Rules, 2018, the expenditure and utilisation of funds accrued under the DMF shall be done as per *Pradhan Mantri Khanij Kshetra Kalyan Yojana* (PMKKKY) or in a manner as decided by the Central/ State Government from time to time and the DMF shall abide by all guidelines and directions issued in respect of PMKKKY and/or any other schemes by the Central/ State Government, as applicable.

According to PMKKKY guidelines, it covers the activities listed below:

- (i) High priority areas- At least 60 *per cent* of PMKKKY funds to be utilised in mining affected area for affected people under these heads: (a) Drinking water supply (b) Environment preservation and pollution control measures (c) Health care (d) Education (e) Welfare of women and children (f) Welfare of aged and disabled people (g) Skill development and (h) Sanitation.
- (ii) Other priority areas- Up to 40 *per cent* of PMKKKY fund to be utilised under these heads: (a) Physical infrastructure (b) Irrigation (c) Energy and Watershed Development and (d) Any other measures for enhancing environmental quality in mining districts.

DMF Rules and PMKKKY guidelines stipulate that for the purposes of utilisation of the DMF Fund, the DMF shall identify the directly affected and indirectly affected areas and people and shall prepare and maintain an updated list of such areas.

As per notification issued (September 2015) by Ministry of Mines, GoI, amount of contribution to the District Mineral Foundation Trust (DMFT) would be two *per cent* of the royalty paid in respect of mining leases or prospecting licence-cum mining leases granted on or after 12 January 2015. Further, as per Rule 9(3) of Bihar DMF Rules, 2018, in case of minor mineral, the amount of contribution to be made would be two *per cent* of the annual auction/settlement amount/compound royalty as per category fixed or at the rate prescribed by the State Government from time to time. In case of brick earth, royalty payable by permit holder/royalty paid by existing lease holder would be charged on annual basis and credited to the Foundation, in addition to the amount payable to the Government on account of such concession.

¹ Notification No. 2197 on dated 23.05.2018.

Audit Findings

5.1 Non-utilisation of District Mineral Foundation Fund: ₹ 82.30 crore

Audit observed in 14 sampled DMOs that a total amount of ₹ 91.86 crore was realised towards DMF Fund during December 2014 to September 2021 (including Separate Corpus Fund and interest) at the prescribed rate from the holders of mining leases of sand *ghats*, stone, limestone quarries and brick kilns and was deposited into the bank account opened in the name of concerned District Mineral Foundation and controlled jointly by concerned District Collector and Mining Officer. Out of total realised amount, total 93 schemes were selected in 13 DMOs² amounting to ₹ 36.60 crore against which ₹ 9.56 crore were spent (September 2021), as detailed in **Appendix-17**. Thus, District Mineral Foundation, in various districts, did not utilise DMF Fund even after lapse of five years from its effective date (January 2015) and after more than three and half years from formation of Bihar DMF. As a result, ₹ 82.30 crore were still parked in DMF Fund. Due to non-utilisation of the DMF Fund, the objectives of the Fund remained unattended.

On this being pointed out, the DMOs stated that action would be taken as per DMFT Committee. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

Recommendation: The Department may ensure utilisation of DMF Fund for development and rehabilitation work of mining affected areas and people as per DMF guidelines.

5.2 Non-utilisation of District Mineral Foundation Fund for purchase/ installation of testing, screening and other equipment in connection with preventing the spread of COVID-19 pandemic

As per instructions of Secretary (March 2020), Ministry of Mines, Government of India, owing to emergent national interest to combat the COVID-19 pandemic, the State Government may utilise the funds not exceeding 30 *per cent* of the balance funds available under DMF for supplementing and augmenting facilities of medical testing, screening and other requirements in connection with preventing, the spread as well as for treating the patients affected with COVID-19 pandemic.

Again, with reference to D.O letter³ (June 2020) of Secretary, Ministry of Rural Development, Department of Rural Development, GoI, 32 districts of Bihar were selected under *Garib Kalyan Rojgar Abhiyan* for providing livelihood opportunities to returning migrants and similarly affected rural citizens, saturate villages with public infrastructure and create livelihood assets. This scheme had to be run for 125 days and funds were to be utilised from DMF Fund.

Audit observed in 14 sampled DMOs that ₹ 20.76 crore (30 *per cent*) of the total available ₹ 69.19 crore⁴ DMF Fund (as on March 2021) in these districts were available for supplementing and augmenting facilities of medical testing,

² Aurangabad, Banka, Bhojpur, Gaya, Kaimur, Nalanda, Nawada, Patna, Rohtas, Saran, Sheikhpura, Siwan, and Vaishali.

³ Letter No. J-11060/24/2020-RE-III (371864) dated 22.06.2020.

⁴ ₹ 13.81 crore kept in Separate Corpus Fund were not included.

screening and other requirements in connection with preventing the spread of COVID-19 pandemic. However, only four DMOs (Bhojpur, Gaya, Sheikhpura and Siwan) marginally utilised the amount of ₹ 0.49 crore (two per cent) from DMF Fund for afore-mentioned purposes. Thus, even though substantial amount of ₹ 20.27 crore was available with State for combating COVID-19 pandemic, the same remained unutilised owing to inactions on the part of DMOs (Detailed in **Appendix-18**).

On this being pointed out, the DMOs stated that necessary action had been taken in this regard. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

5.3 Non-transfer of Separate Corpus Fund amount to DMF bank account: ₹ 29.63 lakh

The MGD issued (September 2018) directions to all District Collectors to transfer the amount received as Separate Corpus Fund into DMF account.

Audit observed in DMO, Bhagalpur that the lessee of sand mining lease submitted demand draft of Separate Corpus Fund amounting to ₹ 29.63 lakh (two per cent of settlement amount of period 2015 to 2017). Details are as under in **Table-13**:

Table-13

Sl. No.	Year	Settlement amount (in ₹)	Amount of Separate Corpus Fund (in ₹)	Bank D.D. No./Date
1.	2015	1,87,94,580	3,75,890	024620/27.06.2016
2.	2016	5,88,00,000	11,76,000	024619/27.06.2016
3.	2017	7,05,60,000	14,11,200	001614/01.03.2017
Total		14,81,54,580	29,63,090	

Further, it was observed (as per statement of bank account) that ₹ 15,51,890 only (as mentioned in Sl. No. 1 and 2 of above table) were found deposited in the bank account maintained by District Collector Office, Bhagalpur and the total balance amount was remitted into treasury (March 2018).

Further, the DD⁵ of ₹ 14,11,200 was not found deposited in the above bank account which raises the possibility of fraud and misappropriation.

Thus, even after lapse of more than 45 months of date of opening of DMF account, DMO/DM could not take proper action to locate the missing amount and to transfer the amount of Separate Corpus Fund into DMF bank account.

On this being pointed out, the DMO stated that matter would be examined properly. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

Recommendation: The Department should investigate the whereabouts of the funds and may ensure that total amount kept in Separate Corpus Fund should be reconciled and transferred in the account of District Mineral Foundation.

⁵ DD No. 001614 dated 01.03.2017.

5.4 Non-transfer of Separate Corpus Fund/DMF Fund amount kept in Punjab National Bank into SBI account of DMF Fund and non-realisation of amount deducted by Income Tax Department

Audit observed in DMO, Bhojpur that Separate Corpus Fund/DMF Fund was kept in the savings bank account⁶ till October 2018 opened on 27 July 2015. Further, another savings bank account⁷ for DMF was opened on 28 September 2018. The District Collector, Bhojpur requested (October and December 2018) PNB to transfer the Separate Corpus Fund to DMF bank account, but the amount was not transferred (July 2021).

Total balance as per passbook of PNB account was ₹ 6.97 crore as on 1 December 2019. Thus, huge amount of DMF was kept unutilised in the Punjab National Bank. This was pointed out earlier also (October 2019) by Audit. But, action had not been taken by the DMO or the Department.

Audit further observed that Income Tax Department raised demand of penalty including interest under section 226 (3) of IT Act for e-TDS default by TAN holder (DMO Bhojpur) with respect to all brick kiln owners for the period 2014 to 2017. In this connection, a DD of ₹ 88.53 lakh from DMF account was transferred (February 2019) to Income Tax Department. This issue was also raised earlier (October 2019) by Audit but no action for recoupment of DMF amount was taken by DMO (July 2021).

On this being pointed out, the DMO stated that correspondence would be made to concerned officer/Bank for transfer of amount from PNB to SBI. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

Recommendation: The Department may take necessary steps to transfer the amount of Separate Corpus Fund kept in Punjab National Bank to the account of District Mineral Foundation.

5.5 Non-payment of District Mineral Foundation Fund in lumpsum

As per Supreme Court Order No. transferred case (civil) No. 43 of 2016, October 13, 2017, full contribution to the District Mineral Foundation Fund was required to be made by the holder of mining lease or a prospecting licence-cum-mining lease by 31 December, 2017 in the case of minerals other than coal, lignite and sand; failing which, lessee would be liable to make contribution with interest at the rate of 15 *per cent* per annum from the due date.

Audit observed that mining lease of limestone situated at Murali Pahari in Rohtas district was renewed in favour of M/s Kalyanpur Cement Ltd. for a period of 20 years with effect from 02.01.2012 by the MGD⁸ (June 2017) with a condition to pay DMF in lumpsum. A sum of ₹ 1.87 crore was calculated as DMF Fund by the DMO and the same was paid by the lease holder in 36 instalments instead of paying in lumpsum. Interest on delayed payment amounting to ₹ 44.84 lakh was also not levied by the DMO. In this regard, a letter has already been issued by the Department to DMO, Rohtas (September 2018), but action taken was not found on record.

⁶ A/c No. 0022000103434856 in Punjab National Bank (PNB), Ara branch.

⁷ Savings Bank Account No. 37975902406 in SBI, Ara branch.

⁸ MGD Letter No. 1613 dated 19.06.2017.

On this being pointed out, the DMO stated that demand notice would be issued to concerned lessee. The matter was reported to the Department (April 2022), their reply was awaited (May 2022).

5.6 Non/short realisation of District Mineral Foundation Fund from sand/stone lease holders and brick kiln owners: ₹ 2.49 crore

Audit observed that five DMOs⁹ did not ensure realisation of contribution towards DMF Fund of ₹ 1.87 crore from the lessees of sand and stone quarries during 2018-21, as detailed in **Appendix-19** and in 11 DMOs¹⁰, ₹ 0.62 crore from 6,164 Brick kiln owners during 2017-18 to 2020-21 as detailed in **Appendix-20**. This resulted into non/short realisation of contribution towards DMF Fund for ₹ 2.49 crore.

On this being pointed out, the DMOs stated that action would be taken after proper verification. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

5.7 Non-levy of DMF Fund on royalty charged for excess extraction of sand: ₹ 21.16 lakh

As per clause 15 (ii) of notification No. 2/MM(B)02/09 Part-(I)-61/MC dated 13.03.2013 of settlement order for sand *ghats*, the lessee had to pay extra royalty for the quantity of sand extracted in excess of the quantity of sand equivalent to settlement amount. The notification provided that the amount so collected for DMF shall be kept in any scheduled Bank.

Audit observed in:

- DMO, Nawada that the lessee was required to pay royalty of ₹ 4.15 crore for the period 2017-19 for excess quantity of extracted sand. The lessee had paid ₹ 1.43 crore and ₹ 1.46 crore only as excess royalty for the year 2017 and 2018 respectively. The lessee was also required to pay ₹ 8.30 lakh for DMF Fund on the extra royalty charged for excess quantity of extracted sand, but the lessee did not pay the same (September 2021).
- DMO, Patna that the lessee did not pay ₹ 12.85 lakh of DMF Fund (September 2021) on royalty charged for excess quantity of extracted sand. Details are given in **Appendix-21**.

On this being pointed out, the DMOs stated that action would be taken in this regard. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

Recommendation: The Department should ensure deduction of prescribed amounts from all mineral concession holders and credit these into Government account for further transfer to the DMF Fund.

⁹ Aurangabad, Banka, Nawada, Rohtas and Sheikhpura.

¹⁰ Aurangabad, Banka, Bhagalpur, Kaimur, Nalanda, Nawada, Patna, Saran, Siwan, Sheikhpura and Vaishali.

5.8 Non-levy of interest on delayed payment of DMF Fund from lessees of sand ghats and stone quarries: ₹ 1.67 crore

It was observed that lessees of sand ghats in 10 DMOs¹¹ had paid the DMF Fund with delay ranging between one and 443 days during calendar years 2015 to 2019 and extended period up to March 2021.

It was further observed that lessees of stone quarries in three DMOs¹² had paid DMF Fund with delay ranging between one and 965 days during calendar years 2016 to 2021. According to the provisions of DMF, in the event of delay payment by lessees, the concerned DMOs had to levy interest of ₹ 1.67 crore (at the rate of 24 per cent per annum). Thus, non-levy of interest for delayed payment of DMF Fund resulted in non-realisation of ₹ 1.67 crore as detailed in **Appendix-22**.

On this being pointed out, the DMOs stated that action would be taken in this regard. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

Recommendation: The Department may ensure that interest is levied and collected on delayed payment of DMF Fund by the sand/stone lease holders.

5.9 Non-maintenance of account of District Mineral Foundation Fund

According to Rule 12 of Bihar District Mineral Foundation Rules, 2018, the accounts of DMF should be maintained in the form mode and manner and would be audited in such manner as may be decided by the Government. After audit, DMF would submit the annual report to the Government. Again, according to Rule 6 of PMKKKY guidelines, the accounts of DMF shall be audited every year by a Chartered Accountant, or in such other manner as the Government may specify, and the report thereof shall be placed in the public domain along with the annual report. Further, PMKKKY guidelines stipulate that an amount not exceeding five per cent of the annual receipts of the Foundation subject to an upper limit fixed by the State Government may be utilised for administrative, supervisory and overhead costs of the Foundation.

Audit observed in 14 sampled districts that separate bank account of DMF and separate cash book of PMKKKY and DMF were not being maintained. Only demand and collection register of DMF was being maintained by the concerned DMOs. Audit further observed that DMF had not appointed CA for conducting the audit since its creation.

On this being pointed out, the DMOs stated that action was being taken for maintenance of cashbook and direction would be taken from the Department for audit of DMFT. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

Recommendation: The department may ensure adherence of DMF guidelines and appoint CA for audit of accounts of District Mineral Foundation.

¹¹ Aurangabad, Bhojpur, Gaya, Kaimur, Nalanda, Nawada, Patna, Rohtas, Saran and Vaishali.

¹² Aurangabad, Nawada and Sheikhpura.

5.10 Non/short realisation of Royalty, Seigniorage Fee and DMF Fund for use of ordinary earth: ₹ 4.58 crore

Audit observed in seven DMOs¹³ that ₹ 10.91 crore were deposited by contractors/agencies as royalty for extraction of ordinary earth. It was also noticed that the contractors/agencies used ordinary earth without obtaining valid permit from concerned DMOs. This resulted into non/short realisation of Royalty and Seigniorage Fee and DMF Fund of ₹ 4.58 crore as detailed in **Appendix-23**.

Further, it was also observed that the contractors had not submitted the estimate of work to the DMOs. Hence, it was not ascertained by the DMOs that how much quantity of earth was consumed in a particular work. In this regard, DMOs had not taken any action against contractors for not providing the estimate of work and not realised the due Royalty, Seigniorage Fee and DMF Fund.

On this being pointed out, the DMOs stated that action would be taken after verification. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

¹³ Aurangabad, Bhojpur, Kaimur, Nalanda, Patna, Saran and Vaishali.

