

# **Chapter-6**

**Internal control, Monitoring  
mechanism and Inter-departmental  
co-ordination**



## Chapter-6

### Internal control, Monitoring mechanism and Inter-departmental co-ordination

As per circular (September 2005) of the MGD, a task force for prevention of illegal mining and overloading was to be constituted in each district. The Department issued (January 2010) further instructions to each District Collector, to hold meetings of the Task Force at least once a month and to send action taken report to the Department in first week of every month. The task force was mandated to prevent illegal mining, to check mining areas, to inspect brick kilns and to inspect sand settlement areas.

As per letter No. 2622/M dated 24.09.2012 issued by the Principal Secretary of MGD, GoB, a committee was set up in respect of preventing illegal mining and a directive was issued. The followings were decided and recommended for prevention of illegal mining:

1. joint inspections by Mining Department, Forest Department, Transport Department and Commercial Taxes Department.
2. set up a task force for inspection.
3. detailed inspection by concerned circle office and police in charge.
4. set up for road checking.
5. inspection of illegal mining in forest area and action to be taken as per rule.

Under the provision of the BMMC Rules, 1972 and instructions issued by the Government (1986), Mines Inspector had to inspect the area of brick kilns and mining leases in every three months for detection of illegal mining. Further, Deputy Directors of Mines (DDMs) have to inspect the mining offices once in a year. Further, BM (CPTS) Rules also provide constitution of State, Division and District Level Mining Task Force for implementation of these rules and to monitor the excavation, trade and availability of minor minerals in the district. In addition to the above, District Level Mining Task Force should also:

1. ensure that all the mining activities were carried on as per the conditions of the mining leases.
2. ensure that no illegal mining, illegal transportation, over loading, hoarding and black marketing of minor minerals was carried on.
3. all the retail business of minor minerals were carried out as provided in these rules.
4. issue directions to any other Department to undertake such action as essential to achieve the objectives of the Act and Rules.
5. ensure that the mining activities were undertaken as per the environmental safeguards laid down by the MoEFCC.

## Audit Findings

### 6.1 Non-adherence to the directives for prevention of illegal mining

Audit observed in 14 sampled DMOs that illegal mining/transportation/storage of minerals was continuously being reported during 2017-21. During this period, 32,426 raids were carried out by DMOs, in which, 41,289 vehicles were seized and 18,287 cases of overloading of minerals on vehicles were reported. Audit, when analysed the records relating to raids, found that records were not maintained to deduce out anything. Even the basic details like mineral type, vehicle details, driver details, location of raid *etc.* were not found in records. In absence of such details, Audit could not analyse and comment upon the same.

Audit further observed that total 4,608 FIRs were lodged and 4,423 people were arrested in respect of illegal mining of minerals. A total amount for ₹ 113.30 crore was recovered during 2017-21. This situation continued to prevail (September 2021) as reflected in the report of illegal mining for 1<sup>st</sup> quarter of 2021-22. However, as per details provided by these DMOs, only 175 meetings of task force were hold against 672 meetings required to be conducted during 2017-21. No joint inspection was carried out in three DMOs<sup>1</sup> during 2017-21. (**Appendix-24**). Further, as highlighted by GIS study in **Chapter-4**, illegal mining area had shown to been persistently increased in the mining areas.

These data show that illegal activities of mining were going on at large scale and directives/circulars of MGD were not being adhered to by the field offices for prevention of illegal mining of minerals.

On this being pointed out, the MGD stated that the State of Bihar had taken exemplary action against a large number of officials whose role in controlling illegal mining was found dubious. Bihar is the only state which complied with direction of the Hon'ble NGT for amendment in rules to increase the penalty amount.

The steps taken by the Department are appreciated, however, the reply is not tenable as only taking action against erring officials is not sufficient to prevent the illegal mining. The reports of illegal mining are self-explanatory that cases are continuously increasing in the State. The Sand Policy, 2013 envisages to levy only royalty for excess extraction of sand mineral which was not sufficient. This increases illegal extraction of minerals by the lessees.

Further, systems and controls mechanism for prevention of illegal mining such as installation of check posts at inter-state/district level were found insufficient in the State. There was lack of inter-departmental co-ordination, as cases of illegal mining were not transferred by Transport Department to the MGD and sufficient meetings of task force were not held as per norms and instructions.

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<sup>1</sup> Bhagalpur, Nalanda and Siwan.

## **6.2 Loss of royalty due to non-co-ordination between District Transport Offices and District Mining Offices in context of seized vehicles involved in transportation of illegal minerals: ₹ 4.20 crore**

As per section 4(i) of Bihar Minerals (Prevention of illegal mining, transportation and storage) Rules, 2003, where transportation of any mineral to any place, the holder of mining lease and the holder of a stock licence shall make an application in form A in duplicate to the competent office for issuing a transit pass. Further, as per Section 8(a) of Bihar Minerals (Prevention of illegal mining, transportation and storage) Rules, 2003, whoever contravenes the provisions of Sub rule (4), (5a) and (5c) of Rule 6 shall be punished by the competent court with imprisonment up to two years or with fine up to ₹ 10,000 along with price of the mineral and royalty with other taxes.

During scrutiny of records of seized vehicles by the Motor Vehicle Inspector and Enforcement Officer of sampled 14 DTOs, Audit observed that the enforcement unit seized 8,483 vehicles between April 2017 and February 2020 which were involved in the transportation of excess load resulting into illegal carriage of minerals (Sand, Stone chips and Stone dust). During test check of 2,482 out of 8,483 vehicles, Audit observed that the DTOs did not refer any of the cases to the district mining offices for their examination regarding the quantity and the source of the minerals. Besides, no documentary evidence *viz.* transit challans *etc.* were found along with the seizure list to ascertain the legality of mineral was checked by the seizing officer. It was also noticed that the DMOs of all 14 districts neither initiated action to co-ordinate with the transport office nor could collect detailed information in this regard even after the fact that both District Transport Officer and DMO were members of the task force at district level to prevent illegal mining. Audit further observed that the MGD had not issued any instruction to Transport Department regarding verification of challan of minerals during seizure of vehicles by the District Transport Enforcement Officer.

Therefore, non-co-ordination between two Departments resulted into loss of revenue in the shape of fine, royalty and penalty for ₹ 4.20 crore in test checked districts as detailed in **Appendix-25**.

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 MGD should establish a co-ordination mechanism with Transport Department so that the vehicles impounded by the Transport Department are referred to the MGD to have a check on illegal mining.**

## **6.3 Loss due to illegal use of tractors registered for agricultural purposes in commercial activities : ₹ 12.77 crore**

As per Sub Section (7) of Section 7 of the Bihar Motor Vehicle Taxation Act, 1994, the tractor and trailer used for transporting agricultural produce shall be clubbed together for the purposes of one-time tax to be levied at the rate of ₹ 3,000 per tractor-trailer in case the tractor was limited to 25 H.P. capacity and the capacity of the trailer does not exceed three tonne. The rate was ₹ 5,000 per tractor-trailer

in case where the tractor has more than 25 H.P. capacity and the capacity of the trailer did not exceed five tonne. Further, as per Sub section (8) of Section 7 of the Bihar Motor Vehicle Taxation Act, 1994, amendment in Bihar Finance Act, 2014 (effective from 19 September 2014), one-time tax for the lifetime of the vehicle was to be levied on tractor used or kept for use for other than agricultural purposes at the rate of 4.5 *per cent* of the cost of the vehicle excluding Value Added Tax (VAT).

During cross verification of data provided by the PMU cell of MGD, Patna and VAHAN data base in respect of 14 sampled districts, it was noticed that 2,27,563 number of mineral challans were issued to 4,830 tractors registered for use of agricultural purposes during the period of January 2018 and March 2020. This meant that these vehicles were being used for commercial activity of carrying minerals in the sampled districts. Owing to non-mapping of e-challan database with VAHAN database as well as lack of sharing of information among different offices, the above rules were not adhered to. The enforcement unit of DTO and MGD failed to stop the utilisation of agricultural registered vehicles into commercial activity. The MGD had no mechanism to prevent issue of mineral e-challan to these vehicles registered for agricultural purpose. This resulted into a loss of ₹ 12.77 crore in the shape of one-time tax of commercial tractors and permit fee as detailed in **Appendix-26**.

The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

**Recommendation: The MGD and Transport Department should integrate mining database with VAHAN, so that e-challans may be generated only to the vehicles registered for commercial purposes and any e-challan generated on non-commercial vehicles is flagged to the Transport Department automatically.**

#### **6.4 Loss of Government revenue due to non-imposition of fine to lessees for issue of e-challan beyond permissible limit to vehicle**

Section 194 of MV Act provides that whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of Section 113 or Section 114 or Section 115 shall be punishable with fine of ₹ 20,000 and an additional amount of ₹ 2,000 per tonne of excess load together with the liability to pay charges for off-loading of the excess load.

During cross check of PMU database of e-challans provided by MGD and VAHAN database in respect of 14 sample districts, Audit observed that 17,03,104 e-challans were issued for which 85,436 vehicles were involved in transporting minerals. Quantities of minerals mentioned in above e-challans were excess of *ladan* capacity of vehicles involved in carrying minerals which was not permissible as per above provisions of MV Act. Audit further observed that no check for assessing *ladan* capacity of vehicles was available in e-challan software and it was not integrated with VAHAN database. In absence of this facility in software, 17,03,104 e-challans were generated with more than *ladan* capacity of vehicles violating the provisions of MV Act as detailed in **Appendix-27**.

The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

**Recommendation: The MGD and Transport Department should integrate mining database with VAHAN, so that e-challans are limited to the *ladan* capacity defined at the time of registration and any e-challan generated on excess capacity is flagged to the Transport Department automatically.**

### 6.5 Transportation of minerals by unfit vehicles

As per Section 56 of Motor Vehicle Act, 1988, certificate of fitness of transport vehicles is subject to the provisions of Sections 59 and 60. A transport vehicle shall not be deemed to be validly registered for the purposes of Section 39, unless it carries a certificate of fitness in such form containing such particulars and information as may be prescribed by the Central Government, issued by the prescribed authority, or by an authorised testing station mentioned in sub-section (2), to the effect that the vehicle complies, for the time being, with all the requirements of this Act and the rules made there under. Further, as per conditions of environment clearance issued by the SEIAA, vehicles used to carry minerals must be having PUC certificate and fitness certificate.

During cross verification of PMU and VAHAN database in respect of 14 sampled districts, it was observed that 82,990 unfit vehicles were used for carrying of minerals through 18,13,797 e-challans during 2018 to 2020, as detailed in **Appendix-28**. This not only contravened the provisions of the Act but also affected the environment adversely.

The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

**Recommendation: The Department should integrate its database with the VAHAN, so that the generation of e-challans on unfit and vehicles without PUC certificate, should be prevented and the conditions of environment clearance issued by SEIAA on carrying of minerals could be followed. Any e-challan generated on unfit vehicles should be flagged in the Transport database to identify the operating unfit vehicles.**

### 6.6 Pendency of certificate cases

The BMMC Rules provide for recovery of the amount of rent, royalty, penalty as a public demand under the Bihar and Orissa Public Demands Recovery (PDR) Act, 1914. Further, as per Certificate Manual, the Requiring Officer (RO) and the Certificate Officer (CO) are jointly responsible for the speedy disposal of certificate cases<sup>2</sup>.

Audit observed in the 13 DMOs<sup>3</sup> that 20,700 certificate cases involving ₹ 229.43 crore were pending with these DMOs as of 31 March 2021. Of this, only 59 cases in these DMOs were disposed off during 2017-21 and recovery of ₹ 2.26 crore was made as given in the **Table-14** (District-wise details in **Appendix-29**) below:

<sup>2</sup> **Certificate case:** When the certificate officer, any Officer authorised by District Collector not below the rank of SDO is satisfied that any public demand payable to the Collector is due, he may sign a certificate in the prescribed form, stating that the demand is due and shall cause the certificate to be filed in his office.

<sup>3</sup> Aurangabad, Banka, Bhagalpur, Bhojpur, Gaya, Kaimur, Nalanda, Nawada, Patna, Saran, Sheikhpura, Siwan and Vaishali.

**Table-14****(₹ in crore)**

Year	Opening balance		Certificate cases filed during the year		Certificate cases disposed off		Closing balance	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2017-18	18,317	133.56	448	10.29	25	0.69	18,740	143.16
2018-19	18,740	143.16	809	39.42	20	0.74	19,529	181.84
2019-20	19,529	181.84	744	27.26	11	0.59	20,262	208.51
2020-21	20,262	208.51	441	21.16	03	0.24	20,700	229.43
<b>Total</b>			<b>2,442</b>	<b>98.13</b>	<b>59</b>	<b>2.26</b>		

Audit observed that for speedy disposal of certificate cases, the power of certificate officer<sup>4</sup> was transferred (October 2016) to the concerned District Certificate Officer. Audit further observed that the Principal Secretary directed (February 2017) District Collectors to ensure quick disposal of certificate cases which includes holding of weekly meeting with DMOs in which reconciliation of register 'IX'<sup>5</sup> and register 'X'<sup>6</sup> could be done and to monitor intensively the cases of big defaulters by preparing a list of defaulters having arrears of more than ₹ 10 lakh, separately. However, Audit observed that the weekly meetings to reconcile the register 'IX' and 'X' were not held in any DMOs and the list of defaulters having arrears for more than ₹ 10 lakh was not prepared.

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

### **6.7 Manpower Management**

One of major control mechanism for having a check on illegal mining is through inspections by Mining officials and it is necessary that there are enough officers for operations, monitoring and administering the relevant mining activities with the assistance of allied staff. Therefore, the deployment of manpower in accordance with the sanctioned strength of the respective departments is not only important for efficient performance of an organisation but also a necessity for prevention of illegal mining and ensuring effective recovery of the arrears of revenue. The cadre-wise sanctioned strength and men-in-position of the Department (2017-18 to 2020-21) are detailed in the **Table-15** below:

<sup>4</sup> Before October 2016, the DDM of concerned region was the Certificate Officer and was responsible to dispose the pending certificate cases.

<sup>5</sup> A register of requisitions maintained by the requiring officer.

<sup>6</sup> A register of certificate kept up by the certificate officer.



Table: 15

Name of post	2017-18			2018-19			2019-20			2020-21		
	Sanctioned strength	Men in position	Shortage (Percentage)	Sanctioned strength	Men in position	Shortage (Percentage)	Sanctioned strength	Men in position	Shortage (Percentage)	Sanctioned strength	Men in position	Shortage (Percentage)
DDM	08	01	07 (87.50)	08	01	07 (87.50)	11	01	10 (90.90)	11	00	11 (100.00)
ADM	11	03	08 (72.73)	11	02	09 (81.82)	15	01	14 (93.33)	15	01	14 (93.33)
MDO	25	25	0 (0)	25	18	07 (28.00)	46	18	28 (60.87)	46	16	30 (65.22)
Mines Inspector	38	35*	34 (89.47)	38	04	34 (89.47)	104	03	101 (97.11)	104	02	102 (98.08)
Head Clerk	23	00	23 (100.00)	23	00	23 (100.00)	23	00	23 (100.00)	107	52	55 (51.40)
Clerk	76	60	16 (21.05)	76	59	17 (22.37)	76	59	17 (22.37)			

\* 32 Co-operative extension officers from other departments were deputed as Mines Inspector

It is evident from the above that the shortages in all cadres were increased over the years. The vacancies in Assistant Director of Mines (ADM), Mines Inspector (MI) and Mineral Development Officer (MDO), who are mainly responsible for operational efficiency as well controlling illegal mining in their respective areas, of the Department was notably high. The huge vacancies in the cadres of ADM, MI, MDO and DDM were adversely affecting the collection of the revenue and checking of illegal mining in the State as detailed in preceding paragraphs. There was 100 per cent shortage of Head Clerk (till 2019-20) in the Department. Even though the Audit had pointed out this issue in previous Audit Reports, the Department had not filled up the vacancies as per sanction strength.

This had resulted into lack of monitoring of illegal mining as observed from the paragraphs in **Chapter-4**, illegal mining reported continuously and in safeguarding revenues of the State through proper assessments in levy and collection of revenue and settlement of all mining lease within stipulated period.

On this being pointed out, the concerned DMOs stated that request letter had been sent to the Department. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

**Recommendations: The Department should take necessary steps to fill up the critical posts urgently and execute its powers through officers and setup a technical cell at the departmental level to monitor extractions through GIS studies and analyse the mining database from time to time.**

### 6.8 Inadequate inspections

The departmental inspections play a vital role in ensuring proper functioning of the organisation. It is the duty of the Mines Inspector (MI) to inspect the area of brick kilns and mining lease on quarterly basis for physical verification of return of

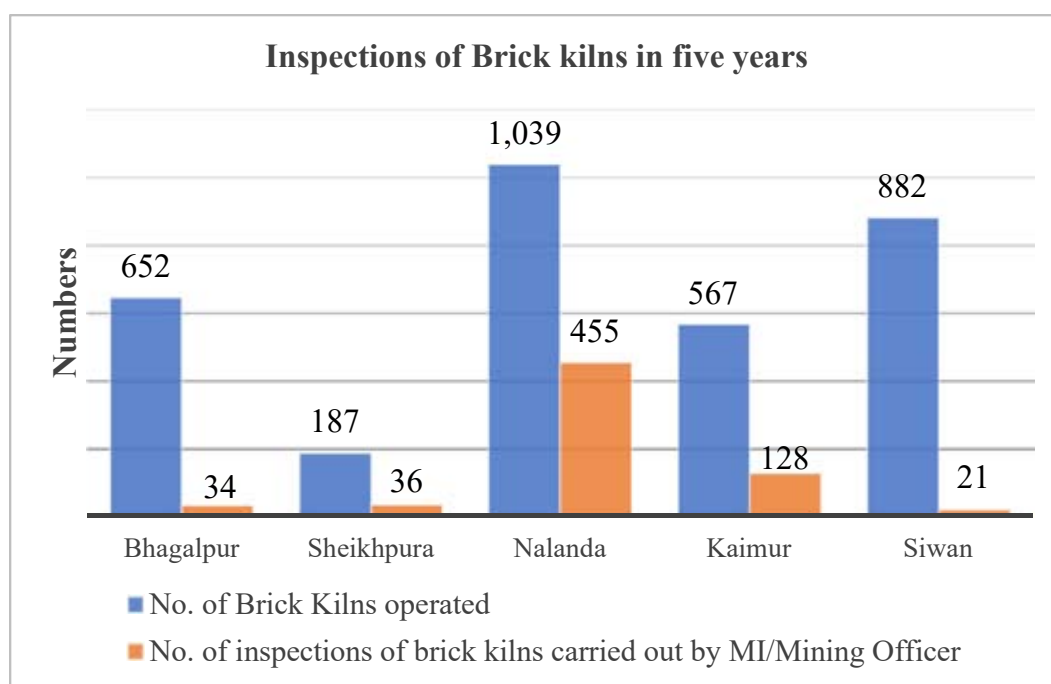
extraction. It is responsibility of every DMO to inspect the mining lease area once in a year. Further, DDM must inspect the mining office once in a year.

Records related to inspections of brick kilns, sand leases and stone quarries and inspections of Mining Offices by DDM were provided by only five DMOs<sup>7</sup>. The deficiencies noticed during scrutiny of records related to inspection as provided by these DMOs for the period 2017-18 to 2020-21 are discussed in succeeding paragraphs.

### 6.8.1 Non-verification/inspection of brick kilns, sand ghats and stone quarries

Chart-12 below highlights inspections carried out by the Mining Officers with respect to operations of Brick kilns in five districts.

Chart-12



(Source: Information provided by DMOs)

Total 63 inspections of stone quarries were carried out by the Mines Inspectors in Sheikhpura during 2017-2021 and no document related to inspection of sand ghats of Bhagalpur, Nalanda, Kaimur and Siwan were found in sand lease files. Inspection of mining lease areas was required to be carried out at regular intervals as this acts as an important control mechanism for controlling illegal mining. In the absence of such regular inspections of lease areas, the activities of illegal mining increased in lease areas as noticed in the paragraphs in Chapter-4.

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).

<sup>7</sup> **Brick kilns:** Bhagalpur, Kaimur, Nalanda, Siwan and Sheikhpura; **Sand:** Bhagalpur, Kaimur, Nalanda and Siwan; **Stone:** Sheikhpura.

### 6.8.2 Inspections by Departmental Officers

During scrutiny of records related to inspections by higher officials, Audit noticed that all five DMOs were not inspected by the DDM during 2017-18 to 2020-21. Details are in the **Table-16** below :

**Table-16**

Name of DMO	Inspection(s) conducted by DDM during 2017-18 to 2020-21
Bhagalpur	Nil
Kaimur	Nil
Nalanda	Nil
Sheikhpura	Nil
Siwan	Nil

Lack of proper inspections by higher authorities of the Department resulted in inadequate monitoring of the functioning of the subordinate offices. Records related to inspections were not made available to Audit in the remaining nine districts. Had the inspections been done for all the mines, the full quantum of deficiencies would have come to the notice of the Department, enabling the Department to control irregular mining activities or ensure proper assessments and collection of revenue.

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).

