

**GOVERNMENT OF INDIA
MINES
LOK SABHA**

UNSTARRED QUESTION NO:2524
ANSWERED ON:08.12.2014
MORTGAGE OF MINING ASSETS
Jena Shri Rabindra Kumar

Will the Minister of MINES be pleased to state:

- (a) whether certain major mineral mines lease holders have mortgaged the Mining assets to avail loan for their enterprises;
- (b) if so, the details thereof;
- (c) whether the mining lease conditions provided for mortgage by such companies;
- (d) if so, the details thereof; and
- (e) if not, the steps proposed to be taken to initiate action against the defaulters?

Answer

THE MINISTER OF STATE FOR MINES AND STEEL (SHRI VISHNU DEO SAI)

(a) & (b): Rule 37 of Mineral Concession Rules (MCR), 1960 provides for, inter alia, mortgage of a mining lease with the previous consent in writing of the State Government concerned.

The prior approval of the Ministry of Mines is required only in respect of mining leases pertaining to minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957. No such cases have been referred to the Ministry of Mines by the State Governments, seeking prior approval for mortgages.

In respect of any mineral not specified in Part 'B' of the First Schedule to the MMDR Act, 1957 State Governments can consent to such mortgages without the previous approval of the Central Government. Details of mortgages consented to by the State Governments are not available centrally.

(c) & (d): Covenant 17 of Part VII of Form K of MCR, 1960 (Model Form of Mining Lease) contains, inter alia, the conditions of mortgage of mining lease, details of which are given in the ANNEXURE.

(e): Does not arise in view of reply to (c) & (d) given above.

ANNEXURE REFERRED IN REPLY TO LOK SABHA UNSTARRED QUESTION NO 2524 FOR REPLY ON 08.12.2014 REGARDING 'MORTGAGE OF MINING ASSETS' ASKED BY SHRI RABINDRA KUMAR JENA

Covenant 17 of Part VII of Form K of MCR, 1960 (Model Form of Mining Lease)

"17.(1) The lessee/lessees shall not, without the previous consent in writing of the State Government,

(a) assign, sublet, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein, or

(b) enter into or make any arrangement, contract or understanding whereby the lessee/lessees will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or undertakings will or may be substantially controlled by, any person or body of persons other than the lessee/lessees:

Provided that the State Government shall not give its written consent unless-

(a) the lessee has furnished an affidavit along with his application for transfer of the mining lease specifying therein the amount that he has already taken or proposes to take as consideration from the transferee;

(b) the transfer of the mining lease is to be made to a person or body directly undertaking mining operations.

(2) Without prejudice to the above provisions the lessee/lessees may, subject to the conditions specified in the proviso to Rule 35 of said Rules, transfer this lease or any right, title or interest therein, to a person who has filed an affidavit stating that he has filed up-to-date income tax returns, paid income tax assessed on him and paid the income tax on the basis of self-assessment as provided in the Income Tax Act, 1961 (43 of 1961), on payment of five hundred rupees to the State Government:

Provided that the lessee/lessees shall make available to the transferee the original or certified copies of all plans of abandoned workings in the area and in a belt 65 metres wide surrounding it.

Provided further that where the mortgagee is an Institution or a Bank or a Corporation specified in Schedule V, it shall not be necessary for any such Institution or Bank or Corporation to meet with the requirement relating to income tax and the said valid clearance certificate.

(3) The State Government, may by order in writing, determine the lease at any time if the lessee/lessees has/have in the opinion of the State Government, committed a breach of any of the above provisions or has/have transferred the lease or any right, title or interest therein otherwise than in accordance with clause (2) :Provided that no such order shall be made without giving the lessee/lessees a reasonable opportunity of stating his/their case."