

## **Details of OTS Policy**

**\*1654. SH. NEERAJ SHARMA, MLA.:** Will the Mines & Geology Minister be pleased to state: -

- a) the details of OTS policy formulated by the Government in Mining Department of State;
- b) the total outstanding amount of Mining Department with the traders togetherwith the amount received by the Government after formulating the OTS policy; and
- c) the district wise details of the traders who have benefited under the OTS policy?

**Mool Chand Sharma, Minister of Mines, Haryana**

Sir, a statement is laid on the Table of the House.

## एकमुश्त निपटान नीति का ब्यौरा

**\*1654.** श्री नीरज शर्मा, एम.एल.ए.: क्या खनन एवं भू-विज्ञान मंत्री कृपया बताएंगे कि:—

- (क) राज्य के खनन विभाग में सरकार द्वारा तैयार की गई एक मुश्त निपटान योजना का ब्यौरा क्या है;
- (ख) व्यापारियों की ओर खनन विभाग की कुल बकाया राशि कितनी है तथा एकमुश्त निपटान योजना बनाने के पश्चात् सरकार द्वारा कितनी राशि प्राप्त हुई; तथा
- (ग) एकमुश्त निपटान योजना के अंतर्गत जो लाभान्वित व्यापारी हैं उनका जिलावार ब्यौरा क्या है ?

**मूल चंद शर्मा खनन मंत्री, हरियाणा**

श्री मान जी, विवरण सदन के पटल पर रखा है।



**Statement in reply to the \*Question No. 1654 asked by Sh. Neeraj Sharma, MLA**

- a) The State Government having found a large number of roadblocks in the mining sector and to ensure smooth mining without or bare minimum litigation / disputes formulated a policy "Vivado ka samadhan", One Time Settlement Scheme" (OTS) which has been notified vide orders dated 03.11.2021. The copy of order dated 03.11.2021 is attached as Annexure A. Further, guidelines issued vide orders dated 18.11.2021 for implementation of the OTS Scheme are attached as Annexure B. Keeping in view more time required the period of OTS has been extended till 15.03.2022 vide orders dated 24.02.2022, the copy of same is attached as Annexure C.
- b) Till now 168 cases have been examined as per above policy involving total outstanding amount of Rs. 811.91 crore. As per calculations under OTS Scheme outstanding dues were reduced to Rs. 148.59 crore. Out of which an amount totalling to Rs. 37.39 crores have already been deposited by 158 miners settling the outstanding amount totalling to Rs. 379.14 crore. Further, 03 of miners *suo moto* deposited amount of Rs. 1.86 crore settling pending dues of Rs. 12.05 crore.

Hence, total 171 cases got examined / dealt till now as per OTS notified involving total outstanding amount of Rs. 823.96 crore and as per calculations under OTS Scheme and outstanding dues were reduced to Rs. 150.45 crore. Out of which total amount of Rs. 39.25 crore has been recovered under OTS from 161 miners after formulation of OTS Scheme settling total amount of Rs. 391.19 crore.

- c) The details of those who have benefited till now as per OTS Scheme is attached as Annexure D.

**Note for Pad for reply to the \*Question No. 1654 asked by Sh. Neeraj Sharma, MLA**

1. The State of Haryana having found large number of roadblocks in mining sector, to ensure smooth mining without or bare minimum litigation / disputes which emanated out of the discussions and deliberations with all stake holders amended some of the related rules of the Haryana Minor Mineral Concession, Stocking and Transportation of Minerals, and Prevention of Illegal Mining Rules, 2012 (the State Rules, 2012), vide notification dated 03.05.2021.

2. Further, for resolution of few of other long pending issues which otherwise could be settled amicably under the policy of the State “*Vivado ka samadhan*”, were further deliberated with all stake holders and concerned Departments. Thereafter the State of Haryana has decided to resolve following issues through “One Time Settlement Scheme” (OTS).

A. Time taken in Environmental Clearance and CTO for Mining and related issues

1.1 As per a notification dated 14.09.2006 issued by Ministry of Environment, Forest & Climate Change, Government of India (MoEF & CC, GoI) before undertaking mining activities/ operations prior Environmental Clearance (EC) is required to be

obtained in accordance with the process let down from the competent authority prescribed under said EIA notification dated 14.09.2006.

- 1.2 In the State of Haryana mining remained almost closed due to litigation from 2010 to 2013 and even areas available for grant could not be auctioned for want of clarity on the process to seek EC. After settlement of the ongoing litigation, the State could auction its mines in December, 2013.
- 1.3 Keeping in view that reasonable time was required for seeking permissions for mining including EC, the mineral concessions were/are being granted subject to the condition that actual mining operations shall be allowed to be commenced only after obtaining prior Environmental Clearance (EC) from the competent authority as per requirement of the EIA notification dated 14.09.2006 of the Ministry of Environment Forest & Climate Change, Government of India. The period of mineral concession to commence from the date of grant of EC or on expiry of the period of 12 months, from the date of issuance of LoI.
- 1.4 However, many of the mineral concession holders who took mines through auctions due to various reasons, failed to obtain EC within 12 months from the date of issuance of Letter of Intent. The actual mining could not be commenced within the

prescribed period of 12 months from the date of issuance of Letter of Intent.

1.5 The mineral concession holders filed CWPs challenging the payment of dues for un-commenced period of contract/ lease after expiry of the period of 12 months from the date of issuance of Letter of Intent. The Hon'ble Punjab and Haryana High Court initially on 02.01.2014 in CWP No. 04 of 2014 granted stay on penal action for non-payment of dues. However, later on Hon'ble High Court dismissed the related writ petition along with all other cases vide judgment dated 19.10.2015 and held that as per terms and conditions of the grant they are liable to pay dues irrespective of the fact as to whether they could commence mining for want of EC or other approvals, after expiry of the period allowed by the state. However, the Hon'ble Court stayed the operation of its own orders till 07.12.2015 in order to give opportunity of filing appeal to challenge the orders.

1.6 The contractors/ leaseholders had challenged the orders dated 19.10.2015 of the Hon'ble High Court by filing SLPs before the Hon'ble Supreme Court. The Hon'ble Supreme Court initially extended the stay orders and later on 22.02.2016 vacated the stay orders, however made observations that if the petitioners deposits amount within 04 weeks they will be entitled to refund with interest. So many of the related issue are pending for



adjudication and dues for un-commenced period of concession are struck due to the abovesaid litigation

- 1.7 Amendment of State Rules, 2012 to allow additional time to seek permissions: The State having taken view on the issue and noting that demanding contract money and other dues after expiry of the period of 12 months is too harsh when they are not actually be able to take benefit or undertake any mining. The experience also showed that to obviate the liabilities they start creating litigation on one ground or other and in many cases, they try to run out of the whole contract/ leases. Accordingly, the provisions related to date of commencement of period of contract / lease was changed by allowing additional time of 12 months, over and above the time already allowed for commencement of the period of contract/ lease, on payment of a non-refundable fee as per the following: -

1	Extension of further period up to six months	On payment of a non-refundable fee at the rate of one percent per month of the annual bid for each month of requested extension period
2	Extension for a second period of up to six months	On payment of a non-refundable fee at the rate of two percent per month of the annual bid for each month of requested extension period
Note: Extension shall be allowed only in month (s) and any request for period less/part of the month shall be summarily rejected.		

- 1.8 The Department of Mining and Geology amended the State Rules, 2012 on 22.11.2018 and made provision to extend time up to 12 months on payment of non-refundable fee for seeking EC/ CTO. It was further provided that date of grant of CTO shall be relevant for commencement of period of concession instead of the date of grant of EC keeping in view that after having taken the contractors have to obtain CTO also after taking EC.
- 1.9 The above changes in the rules do resolve disputes for fresh cases to be granted but the litigation in case granted prior to said amendment still prevailing and state is not able get the old dues recovered.

**B. Other disputes in mining sector:**

- 1.10 Over a period of time due to number of issues reduction of the contract money was being sought and in such cases state had been challenging the orders and matters were/are pending before the Hon'ble High Court/ Supreme Court, the disputes were relating to following issues :
- a) Area of contract found to be not available for mining,
  - b) non-grant of EC by the competent authority for part area or granting EC for lesser production with or without reduction of mining in part area ,

- c) fresh restriction for mining in area imposed after grant and area disputes
- d) Restriction on certain mode of mining imposed by the Hon'ble NGT, refusal of CTE / CTO by the State Pollution Board) have arisen.
- e) Surrender of the concessions are pending.

1.11 The Government of Haryana taking note of prolonged disputes and litigation resulting from various issues relating to mining of minerals in the State, vide orders dated 15.12.2020 constituted a committee headed by the Chief Secretary, Haryana to re-look at the existing legal provisions and its interpretations with a view to resolve disputes, reduce litigation and increase the revenue of the State Government through smooth operation of mining of minerals.

1.12 Based on the recommendations of the Committee and deliberations held in a meeting was held under the Chairmanship of the Hon'ble Chief Minister on 09.02.2021 with stake holders in the mining sector.

1.13 The State of Haryana having found large number of roadblocks in mining sector, to ensure smooth mining without or bare minimum litigation / disputes which emanated out of the discussions and deliberations with all stake holders amended some of the related rules of the Haryana Minor Mineral

Concession, Stocking and Transportation of Minerals, and Prevention of Illegal Mining Rules, 2012 (the State Rules, 2012), vide notification dated 03.05.2021.

### **One Time Settlement Scheme**

3. The State of Haryana having found a large number of roadblocks in mining sector, to ensure smooth mining without or bare minimum litigation / disputes which emanated out of the discussions and deliberations with all stake holders amended some of the related rules of the Haryana Minor Mineral Concession, Stocking and Transportation of Minerals, and Prevention of Illegal Mining Rules, 2012 ( the State Rules, 2012), vide notification dated 03.05.2021.

4. Further, for resolution of few of other long pending issues which otherwise could be settled amicably under the policy of the State “*Vivado ka samadhan*”, were further deliberated in a meeting held under the Chairmanship of the Hon’ble Chief Minister on 06.08.2021 with all stake holders and concerned Departments. Upon detailed consideration, the State of Haryana has decided to resolve following issues through “One Time Settlement Scheme” (OTS). The details of the issues and decision taken are as per following:

**Issue No. 1 - Dues for period before obtaining Environmental Clearance and Consent to operate):**

Before 22.11.2018, the mineral concessions were granted subject to condition that the period of concession shall commence from the date of grant of Environmental Clearance by the competent authority or on expiry of the period of 12 months from the date of issuance of Letter of Intent, whichever is earlier. Due to procedural issues involved, it takes more than 12 months for getting Environmental Clearances. Even after taking Environmental Clearances, the Consent to Operate from the HSPCB is mandatorily required. Irrespective of the fact that concession holders could not excavate any mineral, huge financial liabilities keep accumulating for the uncommenced period of mining contracts after expiry of the period of 12 months. Keeping in view that the Environmental Clearances and Consent to Operate gets delayed due to procedural issues with other Government department/ agencies, the State Government vide notification dated 22.11.2018 allowed addition time up to 12 months over and above period of 12 months on payment of non-refundable fee. The stake holders requested that the State may consider allowing such concession holders who could not obtain clearances also be have benefit of relaxation under said notification dated 22.11.2018.

### **Decision (OTS- 1)**

All mineral concession holders including those mineral concessions which stand cancelled (who are/ were otherwise not covered under amendment dated 22.11.2018 of the Haryana Minor Mineral

Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012) would be given benefit of amendment dated 28.11.2018. In cases, where Environment clearances and Consent to Operate could not be obtained within 12 months from date of Letter of Intent, they will have option to pay non-refundable fees as per the following, to get additional time maximum up to 12 months for seeking EC/ CTO:

- a) Amount of 1% of annual bid amount for each month for first 06 months; and
- b) Amount of 2% of annual bid amount for each month for another 06 months

**Provided that:**

- i. They shall pay interest at the rate of 12% per annum on such amount for the period from date of commencement of mineral concession, subject to maximum of 50% of the total amount of non-refundable fee; and
- ii. The period of mineral concession will not change i.e. the date of commencement of period of lease/ contract will remain same.

**Issue No. 2 -Surrender application:**

In number of cases, the mineral concessionaire are finding difficulties on issues arising out of disputes of area, local disturbances, quality of mineral, market conditions, the operations getting economically non-feasible etc. In such circumstances they want to surrender the contract

and they have applied for the same. But rather than accepting the surrender request the Department has passed orders of cancellation of concessions. Resultantly, during the such period when mining was not undertaken the financial liabilities got piled up. It was requested that surrender the mineral concession be allowed to be accepted from the date of application for surrender were submitted.

### **Decision (OTS 2)**

In case of mineral concession which were granted prior to amendment dated 03.05.2021, if the concessionaire has sought to surrender the contract/lease, but the request was declined hereon the request for surrender (if surrender sought for whole area only) will be allowed by charging an amount equal to **2-month dues from the date of submission of application** or up to the date of passing of orders of termination, whichever is earlier.

However, in cases where the mining was not stopped even after submission of surrender **request**, the period of 02 months as per above will be calculated from the date of stopping of mining operation.

### **Issue No. 3- Dues for suspension period:**

The issue relating to dues for suspension period of mines on account of non-payment of dues was raised and sought to be waived of as during such period mining was not undertaken

**Decision (OTS 2)**

In case the mining operations are suspended on account of non-payment of dues and the mining leases/ contracts were terminated after period more than 03 months, the date of termination of mineral concession will be deemed as the date on which period of 3 months are completed from the date of suspension orders.

**Issue No. 4 -Non execution of agreement:**

In many of the cases due to reasons beyond the control of the bidders/ LoI holders, deed/ agreements could not be executed and even the operations of the mine has not commenced. These cases are not covered by the amendment notification dated 22.11.2018 and the Department apart from forfeiture of amount of initial bid security (10% of the bid amount) deposited at the time of auction is demanding the amount of amount of 15% of the bid amount as balance security along with other dues.

**Decision (OTS 3)**

The cases where after issuance of Letter of Intent, the agreements were not executed and mines could not be operated, in such cases the 10% of the bid amount deposited at the time of auction will be forfeited & no other penal action would be taken. The contract would be treated as closed.



**Issue No. 5- Refusal of Environmental Clearance:**

In few of the cases Environmental clearance was refused by the competent authority, in such cases it was sought that being no fault in their part such grant should be treated as void ab-initio.

**Decision (OTS 5)**

Where the concession holders have applied for environmental clearance but the competent authority has refused to grant environmental clearance, the mineral concessions would be treated as cancelled by forfeiture of the amount of initial bid security (10% of the bid amount) deposited at the time of auction and cases will be closed with no other penal action.

**Issue No. 6 Reduction of the annual contract money/ dead rent in cases where restrictions/modifications have taken place in terms of area post award of Contract:**

There are instances where after the grant of contract, **the** actual mining areas were found to be less than areas granted **or** permissions for mining (Due to issues relating to environmental clearances) were not granted for part area or for lesser production, or additional areas came under fresh restrictions after the reduction on the proportionate basis was sought.

**Decision (OTS 6)**

In cases where out of the originally granted area, the actual area of mine on to be lesser (between 25% to 50% of the originally granted area) for reasons beyond control of contractor/ lease holder;

**Or**

While granting the Environment Clearance, if the competent authority approves it only for part area reducing the level of production;

**And/or**

granted EC without reducing the area with lower production level against normal production.

In such cases, the reduction of the annual contract money/ dead rent would be allowed on proportionate basis to the extent to the loss of production, as against the normal production without such area reduced, subject to following:

- (a) The part area under dispute was/ is 25% or above of the total area granted/ offered for mineral concession.
- (b) During the first 03 years, the actual average production was 90% or above of the approved production level;
- (c) The reduction of annual contract money/ dead rent shall not be allowed to be more than 50% of the original bid amount

- (d) Where area of concession or production level is reduced by more than 50% of the original area/ production level, in such cases concession holder will have option to seek surrender by forfeiture of 10% of the bid amount. However, in case he opts to operate the mine, seeking reduction in the bid amount it will not be reduced by more than 50% of the original bid amount.

**Issue No. 7- Dues for period CTE/ CTO by refused/ stayed:**

In many instances the Haryana State Pollution Control Board (HSPCB) refused CTE in certain cases. The dues for such period were sought to be waived off.

**Decision (OTS 7)**

Dues for the period where after grant of Environmental Clearances the HSPCB refused the CTE/ CTO or same was stayed the dues for such period will be waived off.

**Issue No. 8- One Time Relief in interest amount on payment of pending dues**

- a) In case mineral concessions already **expired as on 31.03.2010**, if whole amount of principal amount is paid within 90 days, the full amount of interest on the delayed payment will be waived off.

- b) If the dues pending as on 31.03.2021 of existing mineral concession (including the one which has expired/ cancelled after 31.03.2010), are deposited to the tune of 100% of Principal amount within 90 days, the 50% amount of interest on delayed period as on 31.03.2021 would be waived off, provided further that the remaining 50% of due interest is also deposited in next 90 days.

The relief as above was allowed with the approval of CMM subject to condition that same shall not be treated as precedent and are allowed only as “one time relief”.

#### **Time extended till 15.03.2022**

5. The total of 171 cases has been examined and notices were issued but many more cases remained to be dealt. In the light of same more time was needed so the State Government extended the time of OTS up to 15.03.2022.

#### **Gist of cases dealt till now under OTS reliefs**

6. As on now relief granted under different OTS are as under:

<b>Issue under Dispute</b>	<b>OTS No.</b>	<b>No of cases</b>	<b>Outstanding amount without OTS(in Cr).</b>	<b>Amount after grant of relief under OTS (in Cr.)</b>	<b>Recovery after OTS (in Cr)</b>	<b>No. of cases</b>	<b>Total amount of relief after recovery</b>
Dues for un-commented period	OTS-1	55	563.48	64.33	33.47	42	379.53

[illegible]