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A reform move? Plan to auction 41 coal blocks 'on behalf of' powerful business lobbies.

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## A reform move? Plan to auction 41 coal blocks 'on behalf of' powerful business lobbies.



**The National Alliance of People's Movements (NAPM)**, India's major civil society network, has asked to immediately revoke the auction of 41 coal blocks for commercial mining in order to "stop corporate loot in eco-sensitive and Schedule V Adivasi areas of Central and Eastern India".

It may be noted that the auctioning announcement was made pursuant to the recent Mineral Laws (Amendment) Act, 2020, passed in March, 2020 [promulgated as an ordinance in January], to amend the Coal Mines (Special

Provisions) Act, 2015 and the Mines and Minerals (Development and Regulation) Act, 1957, in order to 'ease restrictions' on end use and relax the eligibility criteria for participating in coal auctions, especially enabling FDI by global bidders.

The blatant manner in which this decision has been taken by the government exposes, once again, its scant regard for the law of the land, interests of marginalized communities and the ecology. In addition to violating the constitutional safeguards of adivasis in the V Schedule regions, this move is a blow to various protective and enabling laws including:

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (in short, FRA).

The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA)

The Environment Protection Act, 1986 and EIA Notification, 2006.

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act)

The unilateral decision to auction is also violative of multiple judgements of the Supreme Court including:

Judgement dt July 11, 1997 in Samata vs State of Andhra Pradesh and Ors which held that all entities including the State are 'non-advantaged' and adivasi co-operatives alone have the right to undertake mining in their land, if they so wish.

Judgement dt April 18, 2013 in Orissa Mining Corporation Ltd vs Ministry of Environment & Forest (Niyamgiri Judgement) wherein a three-judge Bench upheld the constitutional right of the Gram Sabhas to consider and decide as to whether mining in their areas can be undertaken or not.

Judgement dt July 8, 2013 in Thressiamma Jacob & Ors vs Geologist, Dept. of Mining,

wherein a three judge Bench headed by Jst R.M. Lodha held that ownership of minerals should be vested with the land owners.

Judgement dt August 25, 2014 in Manohar Lal Sharma vs The Principle Secretary & Others (Coalgate Case), wherein a three-judge Bench headed by the Chief Justice clearly held that coal is "national wealth" which should only be used for 'common good' and 'public interest'. Commercial Mining in the absence of the prior consent of and consultation with the Gram Sabhas, the primary decision making body of a village in Scheduled Areas, is a clear constitutional and statutory violation. Further, the Forest Rights Act clearly defines forest as a community resource of the Gram Sabha.

### **Impacts on livelihoods, displacement and environment**

In deciding to open up these areas for commercial mining, the Centre has clearly overlooked the staggering impact on the environment and on lives of the people in the region – land owners and agriculturalists,



mostly adivasis, dalits and forestdwellers. Mining, transportation and improper closure of coal mines has significant environmental and human costs.

The fears expressed by communities are not at all unfounded, given the history of violations by corporates and private companies including non-compliance of clearance conditions, painful land alienation & displacement and poor rehabilitation, unabated pollution, aggressive human rights violations and unkept corporate social responsibility (CSR) promises.

Further, in addition to the local people, thousands of coal workers have also been resisting the decision to commercialize coal mines and are many of them are facing repression and arbitrary charges for the same. It is no wonder that the three states with significant tribal population have raised objections to the coal auction because, adivasis have been the worst victims of coal mining and industrial development since Independence.

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Since independence an estimated 100 million people have been displaced due to development induced displacement, of which approximately 12%, 12 million have been affected by the coal mining alone, of which 70% is adivasi population.

The record of 'resettlement and rehabilitation' has been a mere 25% of those affected who have either got compensation or some form of job with the mining companies. With the private companies bagging all the contracts, the only compensation which project-affected people can expect is 'cash'. We have numerous examples of how meagre 'cashbased R&R' has destroyed lives of entire communities.