

THE MOVE FROM A PREFERENTIAL LICENSE/LEASE REGIME TO COMPETITIVE BIDDING THROUGH AUCTION: AN EXAMINATION OF LAW RELATING TO COAL BLOCK ALLOCATION IN INDIA

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I. Introduction

Coal is the most important indigenous source of energy for industry. Thus, it is of special significance that India has one of the world's largest coal reserves. Coal mining was exclusively reserved for the public sector after the passing of Coal Mining Nationalization Act, 1973. The primary responsibility of supply of coal to the end users was entrusted with Public Sector Company. However, due to the growing demand for coal energy, private participation was enabled in coal mining. The Mines and Mineral (Development and Regulation) Act, 1957 is the most prominent mining statute in India, containing overarching provisions for the allotment, working and closure of mines. Under the Act, coal is classified as a mineral under Schedule One, which implies that coal is a natural resource whose ownership vests with the Central Government. Therefore, the prospecting and mining of coal as a natural resource is controlled and regulated by the Central Government. The coal sector is also subject to all Environmental laws and regulations.

Prior to the infamous Coal Gate scam in 2012, coal block allocation in India was done largely by way of preferential licensing. The preferential license holder has a preferential right in obtaining a license under the mining law regime. However, the preferential license regime suffered from myriad loopholes and was riddled by systemic inefficiencies. In view of this, the Ministry of Coal issued instruction for constituting a Screening Committee for the purpose of screening proposals received from private power generation companies for captive mining in 1992. From 1993 to 2005, the Screening Committee made allocations without following any definitive objective criteria, and instead resorted to adhocism. The draft report of the Comptroller and Auditor General of India (CAG) highlighted grave flaws in the coal block allocation process and it estimated windfall gains to allottees. The constitutionality of the coal block allocation was challenged before the Supreme Court in *ML Sharma v. Union of India*. In a landmark decision, the Court set aside the coal block allocations. This judgment has rekindled the debate on coal block allocations. The judgment was followed by mining law

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amendments which introduced the competitive bidding through e-auction of coal block.

In this paper, the article first seeks to trace the trajectory of laws surrounding coal block allocation in India. Second, in it examines social block allocation prior to the Coalgate scam and studies the preferential licensing regime. It analyses the drawbacks of the preferential license system by analyzing case law. Third, in the Article analyses the case and its impact on the law and policy in the Indian coal Industry. Fourth, in the Article will study the law regulating to competitive bidding of coal mines and its implication. Finally, the Article will compare and contrast the competitive bidding and preferential licensing system and call for effective laws and rules in this direction.

II. Statutory and Institutional Framework Governing Coal Sector in India

Entry 54 to List I of the constitution provides the Central Government with the power to regulate ‘mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest’. In pursuance of this power, the Central Government has enacted legislations to regulate coal mining. Accordingly, parliament of India enacted, Mines and Mineral (Development and Regulation) Act, 1957 (herein referred to as the MMRD Act). Coal is largely governed by the MMRD Act. Under this act, coal is classified as a mineral under Schedule One, which implies that Coal is natural resources whose ownership vests with the State.² This implies the coal mines are jointly managed in India by both the state governments and the central government. The states has ownership over the coal resources located in their state, and the central government control the mining and prospecting of coal throughout India.

The coal also subject to the Mines Act, 1952, this particular legislation governing primarily with regards to the safety and wellbeing of the workers. In exercise of the power under section 57 of the Mines Act, 1952, the central government enacted The Coal Mines Regulations, 1957. Sub-section (5) of Section 2 defines ‘coal’ as including “anthracite, bituminous coal, lignite, peat and any other form of carbonaceous matter sold or marketed as coal’. It contains detailed regulations regarding aspects such as returns, notices, records, certificates of competency and fitness, duties and responsibilities of workmen, competent persons and officials, requirements of mines plans and means of access and egress. Thus, all the coal mining companies has to comply these regulations mandatory.

² Arpita Asha Khanna “*Goverance in Coal Mining: Issues and Challenges TERI-NFA*” working paper, No. 9 The Energy and Resources Institute, 2013.

In exercise of the powers under section 13 of the Mines and Minerals (Regulation and Development) Act, 1957, the central government enacted the Mineral Concession Rules, 1960. These rules regulate certain aspects of coal exploration and mining, such as grant of reconnaissance permits, application for mining lease, terms and condition on mining lease, closure of mining lease and other restrictions enjoyed by the lessee and the covenants of the lessee inter alia. Since mining is intrinsically linked with environment and forest conservation issues, all environmental legislation will be applicable to coal extract and mining activities. The coal sector is regulated both at the central and state level. At the central level, the Ministry of Coal, Ministry of Mines and the Ministry of Environment and Forest are responsible for the formulation of policy and strategy for development in the coal sector. These ministries also co-ordinate with other ministries such as the Ministry of Labour, Ministry of Industry and Ministry of power to enhance development of coal sector. At the state level, the Department of Mining and Department of Forests along with the State Pollution Boards oversee coal mining development. At the local level, the municipalities and panchayats play an increased role in environmental management and land improvement.

The Coal Bearing Areas (Acquisition and Development) Act, 1957 was enacted to provide for 'greater public control over the coal mining industry and its development' by facilitation acquisition of land which contains or is likely to contain coal deposits.³ Section 7 of the Act provides the central government the power to acquire rights over land which has been notified under section 4 of the Act.⁴ Such notification is issued when the government believes that coal is obtainable from the land. Under section 8, persons affected may file objections to the acquisition, within thirty days of the issue of notification. Section 9 A contains the 'urgency clause' and provides the central government to acquire land on an emergency basis. On publication in the Official Gazette, the land will vest absolutely in the central government.⁵

The nationalization of coal mines took place from 1971 to 1973.⁶ Nationalization of coking-coal mines was introduced in 1972 and non-coking mines in 1973. The Coal Mines (Taking Over of Management) Act, 1973 was enacted "to provide for the taking over, in the public interest, of the management of coal mines, pending nationalization of such mines"⁷ it

³ The Coal Bearing Areas (Acquisition and Development) Act, 1957.

⁴ Id., section 4- preliminary notification respecting intention to prospect for coal in any area and power of competent authorities thereupon.

⁵ Id., section 10- Vesting of land or rights in Central Government.

⁶ The Coal Mines (Nationalization) Amendment Bill, 2000, Statement of objects and reasons

⁷ The Coal Mines (Taking Over Management) Act, 1973, Preamble

was aimed at ensuring optimum utilization of coal resources. Immediately after that, to ensure the “rational, co-ordinate and scientific development and utilization of coal resources consistent with the growing requirements of the country. The Parliament enacted The Coal Mines (Nationalizations) Act, 1973.⁸ This legislation seeks to fulfill the mandate of Article 39(b) of the Constitution of India, which emphasizes “that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good”. The Coal Mines (Nationalization) Act, 1973 vested the ownership and control of coal resources with the state so as to best sub serve the common good.⁹ As a result of the nationalization, Coal India Limited (CIL), a public sector corporation was established to produce and market coal and even today CIL is the largest producer of coal in India by a huge margin.

Even though the Act of 1973 completely nationalized the coal industry of India, the subsequent amendments brought about in 1976, 1993, 1996, government however allowed private players to enter the coal industry by allowing captive coal mining. Section 3 of the Coal Mines Nationalization Act states that the Government coal companies can engage in on-captive coal mining. Companies engaged in iron and steel production, power generation, cement production, coal washeries and such other end uses of coal as may be notified by the Central Government can mine coal only for the purposes of captive consumption. This move has been criticized on the ground that allocation of captive mining licenses provides undue power and leverage to the allottee and facilitates windfall profits.¹⁰

The coal sector is regulated both at the Central and State levels. At the Central level, the Ministry of Coal, Ministry of Mines and the Ministry of Environment and Forest are responsible for the governance of the sector which includes conservation and development of the coal sector in India.¹¹ These ministries also co-ordinate with other ministries such as the Ministry of Labor, Ministry of Industry and the Ministry of Power to enhance development of the coal sector.¹² At the State level, the Department of Mining and the Department of Forests along with the State Pollution Boards oversee coal mining and development.¹³ Apart from the Ministries and governmental agencies, non-governmental organizations (NGOs) and

⁸ The Coal Mines (Nationalization) Act, 1973, Preamble

⁹ The Coal Mines (Nationalization) Act, 1973, Preamble

¹⁰ GAG Union Audit Report on Allocation of Coal blocks and http://www.cag.gov.in/sites/default/files/audit_report_files/Union_Performance_Commercial_Allocation_Coal_Blocks_and_Production_Ministry_Coal_7_2012.pdf

¹¹ Supra 2.

¹² Ibid

¹³ Ibid

informal institutions also play an important role in the regulation of the coal industry.¹⁴

III. Coal Block Allocations Prior to 2012: The Preferential Licensing Regime and Coal-Gate

Prior to the infamous Coal block allocation scam in 2012, coal block allocation in India was done largely by preferential licensing. The preferential license regime granted ‘Prospective licenses’ under the MMRD Act. Under section 4 (1) of the act, the activity of prospecting for minerals could be done only after obtaining a prospecting license for the area where the prospecting seeks to be done. This section examines the preferential licensing system and identifies its shortcomings.

III.I. Preferential License Regime

The preferential license regime encompassed the grant of prospecting licenses or mining lease under Section 4 of the MMRD Act, 1957. The procedure and guidelines to be followed for the subsequent application and grant of such licenses and lease are described in the Act. The procedure is also subject to the rules laid down in the Mineral Concession Rules of 1960. No prospecting or mining operation may be undertaken in the absence of a lease or license.¹⁵ The Act provides for making applications for prospecting licenses or mining leases in respect of any land in which the minerals vest in the Government. On receipt of an application by the State Government may grant or refuse to grant the permit, license or lease.¹⁶ When two or more persons apply for grant of a mining lease over such land, the applicant whose application was received earlier shall have preferential right for grant of mining lease.¹⁷ Where more than one application are received on the same day, the State Government may grant mining lease to such one of the applicants as it may deem it according to the parameters specified under the MMDR Act, 1957.¹⁸

Where reconnaissance permit or prospecting license has been granted in respect of any land, the permit or the license holder shall have a preferential right for grant of mining lease over any other person provided that the State Government is satisfied that the permit holder or the license is qualified as per sub-section (1) of Section 11 of the Act. Rule 34 of Mineral Concession Rule, 1960 further provides that the State Government while granting the mining lease over the areas earlier held under reconnaissance permit/prospecting license may for any special reasons to be recorded in writing reduce the area or exclude a portion there from. One of the most

¹⁴ Ibid

¹⁵ Section 4, The Mines and Minerals (Development and Regulation) Act, 1957

¹⁶ Id., Section 10

¹⁷ Sec. 11(2).

¹⁸ Sec.11 (3).

important features of the preferential license regime was the existence of a preferential right for the grant of a prospective license or mining lease, which is envisaged in Section 11 of the Act.¹⁹ In the event that a license has already been granted, then the license holder has a preferential right in obtaining a license with respect to that land over any other person. This preferential right was also recognized by the Supreme Court in *Indian Charge Chrome v. Union of India*²⁰ where the court held the Section 11(1) confers a preferential right to a prospecting license-holder. Further, in *T. Nandgopal v. Union of Andhra Pradesh*²¹ the court held that the preferential right of the applicant cannot be overlooked by the State government unless by prior approval by the Central Government.

There may be an instance where a particular area may have been applied for grant of a prospecting license by an applicant and subsequently for grant of a mining lease by another applicant. The Act and Rule are silent on such an issue,

Where a prospecting licence has been granted in respect of any land, the licensee shall have a preferential rights for obtaining a mining lease in respect of any land, provided that the State Government is satisfied that the licensee-

- i) Has undertaken prospecting operation to establish mineral resources in such land;
- ii) Has not committed any breach of the terms and conditions of the prospecting licence; and
- iii) Is otherwise a fit person for being granted the mining lease²²

By introducing the non obstante clause, the provisions under Sec. 11 (5) of the Act reserves to the State Government the right to grant the mining lease to an applicant, whose application was received later in preference to an applicant whose application was received earlier but in doing so, the State Government is required to record special reasons. Where the recommendation on the basis of special reasons, made by the State Government in favour of the later applicant, is in respect of any major mineral, the Central Government's approval on the recommendation shall have to be taken before granting the mining lease to the later applicant.²³ Section 11 provides for certain preferential rights in favour of certain

¹⁹ Section 11, The Mines and Mineral (Development and Regulation) Act, 1957

²⁰ (2006) 12 SCC 331

²¹ AIR 1998 AP 199 at 204

²² *Aruna Mehra v. State of Bihar*, [1997] 2 B.L.J.R 1576 at p. 1577.

²³ *Pawanjay Steel & Power Ltd. v. State of Jharkhand*, [2009] (2) JCR 4 at p. 14 (Jhar).

persons in the matter of grant of mining leases. Section 12 prescribes the Register of prospecting licenses and mining leases to be maintained by the State Government

Under Section 11 of the Act as it stood prior to the amendment, where two or more persons have applied for a mining lease in respect of the same area, the applicant whose application was received earlier shall have a preferential right for of mining lease. Thus, the principle of first come first served alone was existing under the scheme of the Act. However under sub-Section (4) of Section 11 of the Act, as amended, which is applicable to the areas notified in the Official Gazette for grant of a mining lease, the date of application has no relevancy at all. The said provision makes it clear that all the applications received during the period specified in the notification shall be considered simultaneously as if all such applications have been received on the same day taking into consideration the matter specified in sub-section (3) Thus, so far as the areas notified in the Official Gazette for grant of mining lease are concerned, there cannot be any preference to a prior applicant.²⁴

In the case of *A.Kotaiah v. State of Andhra Pradesh*,²⁵ it was held that a private individual has no fundamental right or other right to grant of licence. He cannot question the right of the Central and the State Government to deal with mineral resources situate in the State in the manner they deem fit in the public interest. While considering the claims of rival traders under similar circumstances in the matter of fishing rights, the Supreme Court in the case of *Ananda Behera v. State of Orissa*,²⁶ held refusing to recognize by virtue of subsequent vesting has not resulting in infringement of any fundamental right. Since the State is the owner of the property, it is the best person to decide in whose favour the grant of mining lease can be made.²⁷

According to this section, the person who applies first is entitled to a preference, and if that preference is proposed to be overlooked by the state Government, it has to obtain the prior approval of the Central Government, besides recording special reasons for such overlooking. Unless the Central Government accords its prior approval for such overlooking, the State Government is not competent to overlook the priority claim of the earlier applicant.²⁸

²⁴ *Ferro Alloys Corporation Ltd Vizianagaram District v. Union of India*, [2008] (1) ALD 812 at p. 818.

²⁵ AIR 1959 A.P.,

²⁶ AIR 1956 SC.17.

²⁷ *Indian Charge Chrome Ltd v. Union of India*, AIR 2002 Orissa 45 at p. 60.

²⁸ *T. Nandopal v. State of A.P.*, AIR 1988 A.P 199, at p.204.

The Section 11 read with Rule 35, 26 (1) and 26 (3) of MCR 1960 provide the provisions and process to select the most suitable applicant by a just and equitable criteria for grant of mining lease when multiple applications are received over a single area that is notified by the State Government.

If the procedure under section 11 is not followed, then the selection of a particular applicant for the granting of the mining lease is liable to be quashed.²⁹

In cases where a preferential claim under Section 11 (1) of the Act is involved, the State Government can make a grant only after giving a fair opportunity to all interested citizens to make applications in that behalf and by choosing the most qualified among them or the most favourable offer from the point of view of the State. Entertaining of applications made and granting leases without any publicity or without giving other aspirants even an opportunity to seek the grant would be unfair dealing and hence constitutionally objectionable.

It is clear from the several provisions of the Act and the rules made hereunder that no mining operation is permissible except in accordance with the terms and conditions of mining lease and the rules made under the Act.

III.II. The shortcoming of the Preferential License Regime

The preferential license regime suffered from various loopholes and resulted substantial inefficiencies while allocating the mineral licenses/ leases. The process of allocation was done by way of a screening committee headed by a Secretary of Coal and also comprised of Ministers representing various ministries as well as State Government and State-owned corporations.³⁰ This created subjectivity which made the process opaque. The Screening Committee in charge of processing the applications for mining lease and license adopted an ad hoc and casual approach which often led to inconsistencies and arbitrariness.³¹

The allocation process suffered from multiple shortcomings. Allocations were largely made based on the recommendations of the Screening Committee, which more often than not had no set criteria.³² In the absence of fair and established criteria, the process was arbitrary and paved way for rent seeking or corruption.³³ Although a case for a fair auction method was suggested, there was much delay in taking a decision on the

²⁹ *M/S Milan Minerals Pvt. Ltd., Bangalore v. Union of India*, AIR 2002 karn. at pp. 242 246, 247.

³⁰ *Supra* 2.

³¹ Arundhati Muthu Everything about the coal scam Green Peace India

³² *Ibid*

³³ *Ibid*

same by the Government, as it continued to allot over 142 coal block during that time period.³⁴ Moreover, coal mining companies were often hand-in-glove with the local politicians which enhanced a non-transparent procedure of granting coal mining licenses.³⁵

On 15 January 2015, the Supreme Court further highlighted the opaque and arbitrary allocation procedure by directing the government to place before it the guidelines that were followed by the Screening Committee failed to disclose the minutes of the meeting of the committee, and that the justification for coal block allocations should emanate from the minutes of committee meetings.³⁶

III.III. The Coal Gate Scam

In July 1992, the Ministry of Coal issued instructions for constituting a Screening Committee for the purpose of screening proposals received from private power generation companies for captive mining.³⁷ The Screening Committee had a wide representation of different Ministries of the Central Government as well as the state Government in which the particular coal block lay.³⁸ From 1993 to 2005, the Screening Committee made allocations without following any definitive objective criteria and instead resorted to ad hoc measures.³⁹ Most coal blocks were allocated to influential applicants who were able to produce a letter of recommendation from the concerned State Government.⁴⁰ Thus, between 1993 to 2010, most of these coal blocks were allocated, and the total blocks at the end of 2010 was 194.⁴¹

The office of the Comptroller and Auditor General of India had evaluated the performance of coal India focusing on the allocation of coal blocks in the period of 2005-09. In March 2012, the Draft Report of the Comptroller and Auditor General of India (CAG) was released and it accused the Government of “Inefficient allocation of coal blocks 2004-2009”⁴² it estimated windfall gains to allottees to the tune of Rs. 10.7 lakh crores.⁴³

³⁴ Ibid

³⁵ Ibid

³⁶ Coal block allocation guidelines,

³⁷ Report of the Comptroller and Auditor General of India, Allocation of Coal Blocks and Augmentation of Coal production by Coal India Limited

³⁸ Press Release, CAG Union Audit Report on Allocation of Coal Blocks and Augmentation of Coal Production- Ministry of Coal Presented in Parliament Today,

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Ibid

⁴² Report of controller and auditor general of India

⁴³ The Hindu, Coal Scam: Chronology of Events, November 10, 2014, available at [http](http://www.thehindu.com)

The Draft Report of the CAG highlighted the grave flaws in the coal block allocation process. The process was regulated largely through administrative rules, instead of legislation. This rendered it prone to ambiguity and misuse. In 2006, the Law Secretary discussed this in his legal opinion,

“...there is no express statutory provision providing for the manner of allocating coal blocks, it is done through a mechanism of Inter-Ministerial Group called the Screening Committee...The Screening Committee had been constituted by means of administrative guidelines. Since under the current dispensation, the allocation of coal blocks is purely administrative in nature, it was felt that the process of auction through competitive bidding can also be done through such administrative arrangements. In fact, this is the basic of our earlier legal advice. This according to the administrative Ministry has been questioned from time to time for legal sanction. If provision is made for competitive bidding in the Act itself or by virtue of rules framed under the Act the bidding process would definitely placed on a higher level of legal footing.”⁴⁴

Even the CAG in its concluding remarks also highlighted the importance of competitive bidding in the following words-

“.....There was no legal impediment to introduction of transparent and objective process of competitive bidding for allocation of coal blocks for captive mining as per the legal opinion of July 2006 of the Ministry of Law and Justices and this could have been done through an administrative decision. However, the Ministry of Coal went ahead for allocation of coal blocks through Screening Committee and advertised in September 2006 for allocation of 38 coal blocks and continued with this process until 2009.”⁴⁵

Even though the Ministry of Coal could have amended this opaque and arbitrary process and introduced competitive bidding in its place, it neglected to do so and continued with the process till 2009.⁴⁶ This flawed process ensued that the estimated windfall gains worked out to Rs. 6.31 lakh crore, based on the prices prevailing during the year of allocation.⁴⁷ Thus, while the coal block allocation procedure was meant to be transparent and

⁴⁴ Draft Report, p. 22-23

⁴⁵ Dart Report, p 22

⁴⁶ Id

⁴⁷ Id

objective, in reality it lacked transparency and failed to arrive at optimal pricing. Meanwhile, the Ministry of Coal formed an inter-ministerial panel to review the allocation. The final report of the CAG was tabled in the Parliament in August 2012 and total exchequer loss at INR 1.86 crores.⁴⁸

III. IV. Constitutionality of Procedure

In August, 2014 the constitutionality of the coal block allocations was challenged before the Supreme Court in *Manohar Lal Sharma v. The Principal Secretary*.⁴⁹ The petitioners, M.L Sharma and Common Cause, had challenged the allocation of coal blocks from 1993 to 2010 as illegal and unconstitutional on the following grounds:⁵⁰

- a. Non-compliance of the mandatory legal procedure under the Mines and Minerals (Development and Regulation) Act, 1957
- b. Breach of Section 3(3)(a)(iii) of the Coal Mines (Nationalization) Act, 1973
- c. Violation of the principle of Trusteeship of natural resources by gifting away precious resources as largesse.
- d. Arbitrariness, lack of transparency, lack of objectivity and non-application of min; and
- e. Allotment tainted with mala fides and corruption and made in favour of ineligible companies tainted with mala fides and corruption.

Two principal prayers were made in the composite set of writ petitions. First, for quashing the coal block allocations made to private parties between 1993 and 2012. Second, ordering a court monitored investigation into the allocations made by the Government. The court finally held that "...the entire allocation of coal block as per recommendations made by the Screening Committee suffers from the vice of arbitrariness and legal flaws. The Screening Committee has never been consistent, it has not been transparent, there is no proper application of mind, it has acted on beyond the power of the law. Hence, the allocation of coal blocks based on the recommendations made in all the 36 meetings of the Screening Committee is illegal.

III. V. Competitive bidding

As the first step, the MMRD Amendment Act was introduced in the Parliament, which proposed a system of competitive bidding applicable to all minerals governed under the MMRD Act. This amendment was passed in the year 2010. Section 11A was inserted in the MMRD Act. In furtherance of this, the Auction by Competitive Bidding of Coal Mines Rule, 2012 have

⁴⁸ Suchitra Mohanty & Krishnan Das Supreme Court says government coal allocations illegal Reuters 26

⁴⁹ M.L Sharma v. Principal Secretary, Writ Petition

⁵⁰ Id, 2

been framed by the Central Government in pursuance of Section 13(2) of the MMRD Act. These Rules set out the procedure for allocation of coal mines to private and government companies.

The Auction by Competitive Bidding of Coal Mines Rules, 2012 (Auction Rules) have been framed by the Central Government in pursuance of Section 13(2) of the MMRD Act. These rules set out the procedure for allocation of coal mines to private and government companies.

Post the cancellation of the allotment of coal block, the Coal Mines (Special Provisions) Ordinance, 2014 was promulgated. This ordinance sought to allocate the cancelled coal mines. According to Section 4(1) of the Special Provisions Act, section 1 mines have to be allocated by way of a public auction through competitive bidding.⁵¹ As for Schedule II and III coal mines, a company engaged in specified end-use, a joint venture company formed by two companies having a common specified end use and a government company shall be eligible to bid in the auction.⁵² Section II and III mines are to be allotted by way of public auction and had to be completed by March 31, 2015.⁵³

IV. Conclusion

Finally mining law amendments have departed from the archaic method of allocation of coal blocks for notified captive use on the basis of recommendations from concerned inter ministerial committees. The new procedure of auction by competitive bidding was introduced in the hope of increasing transparency and objectivity in the allocation process. Recent development in the mining auction scenario is hailed as a positive beacon in this regard as various reports suggests that the coal blocks auction has been witnessing aggressive bidding and has long surpassed the 1,86,000 crore mark which was the estimated loss accounted by the Comptroller and Auditor General of India as per the coal block allocation scam.⁵⁴ In light of these events, the author believes that the Auction by Competitive Bidding of Coal Mines Rules and laws are a step in the right direction to ensure transparency and stability in the allocation of precious non-renewable resources such as coal.

Although this process was hailed by many as a positive step, there were still certain criticisms leveled by the coal industry that the new structure of the allocations was considered to be fairly complex and high prices which were being paid for the allocations were hurting their business growth. Hence, laws, policies and rules must be formulated in an inclusive

⁵¹ Coal Mines (Special Provision) Act, 2015, Section 3(1)(p)

⁵² Id., Section 4(3)

⁵³ Id.

⁵⁴ K.N Das, 'Coal blocks auctions in India see aggressive bidding' (in.reuters 2015)

way to address these various issues to guarantee overall reorganization in the coal sector. Thus, the auction route is certainly better than the preferential allotment of natural resources and it ensures fairness in allotment.