Coal mining licence raj turns public enterprises into commission agents!

By Naresh Minocha, Our Consulting Editor

THE Government's nine-year delay in implementing its policy for allowing coal mining for merchant sale, but licence-quota-centric captive mining policy has spawned rent seeking opportunities for public sector entities.

Such entities are out to seek benefits from those companies that cannot apply for captive mining licence or apprehend denial of licence. The rent seeking benefits are being asked in the form of facilitation fee, concessional power tariff, cashless equity, etc.

The Coal Ministry's notice invitation for applications for allotment of 15 coal blocks to power generation projects and 23 blocks to steel, cement and other specified user industries closes on 12 January 2007.

The State-owned mining and electricity companies/SEBs are bracing to strike rent seeking deals with private sector companies even before the allotment of blocks. Those companies that earlier secured blocks are already in the midst of rent-seeking.

Take the case of Assam Power, Mines and Minerals Department, whose enterprises are applying for a few blocks. Says the Department, "On allocation of the block, actual setting up and operation of the mines and/or power plant may be outsourced to a technically competent and financially sound entity.. **This entity would compensate the agency through a facilitation fee per MT of coal extracted and/or a share in the power generated at mutually agreeable concessional rate."**

Take now the case of Maharashtra State Mining Corporation (MSMC), which is a prospective

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applicant for coal blocks. It says intent to form a joint venture with a company that is eligible to apply on its own. It is the process of selecting JV partner through bidding competition.

In this special purpose vehicle (SPV)/JV that would develop and operate the mine, MSMC wants to have 26% "cashless equity". Apart from this, it wants to select prospective partner on the basis of premium/tonne of coal it is willing to give to MSMC and the minimum yearly production it agrees to commit.

As regards 27 additional blocks which Coal Ministry has made available to State agencies under State Dispensation Scheme for power and coal linkages to small scale industries (SSIs), MSMC has more grandiose idea of rent seeking from prospective joint venture partner.

It says: "For supply of coal to SSIs, MSMC will have 51% cashless equity in the SPV and selling price will be in accordance with Govt's policy for SSIs. Bidding parameter will be 'premium per MT' and 'production per year'.

Such rent-seeking behaviour has to be viewed against some history. The Coal Ministry had last year notified 75 applications for 20 coal and lignite blocks from various companies as "incomplete or invalid" after first scrutiny. In all, the Ministry had received 665 applications for 25 blocks.

The Coal Ministry had initially allocated blocks for captive mining to power, sponge iron and steel and cement companies in the early nineties. Very few companies converted allocations into developed mines.

Coal mining is challenging task that the licence-holders apparently consider them to be detour from the core competency. In any case, they lack the resources and the capacity to bear all the risk for development and operation of mines.

Even giants like National Thermal Power Corporation (NTPC) have chosen soft options of either joint venture or handing the job to a develop-cum-operator for prospecting, delineating and developing mines in the allotted blocks.

Singareni Collieries Company Limited (SCCL), the joint venture between the Centre and AP Govt, is thus gearing to bail NTPC out from mining challenge. SCCL has emerged as the strong contender for NTPC contract to serve as developer-cum-operator for Pakri-Barwadih coal mine in Jharkhand.

SCCL is now itself scouting for a joint venture partner this assignment. The company says: "SCCL would like to work with a business partner who has strong expertise in coal mining with sound financial strengths in Pakri Barwadih block in developing and operating mine on long-term basis."

SCCL takes pride in the fact that it is the oldest Govt. mining company and has 117 years of experience in coal mining. With such credentials, does it need a partner who has expertise in coal mining?

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In any case, such partners would be hard to come by in Indian private sector, as coal mines were nationalized and made a preserve of public sector in early seventies, except for captive mines owned earlier by steel companies.

In 1993, the Government amended Coal Mines (Nationalisation) Act, 1973 to allow captive coal mining in private sector for specified end-user industries and for washing of coal.

Even in the washeries business which is easier, short-gestation and low-cost business, very few private companies have ventured in. Even NTPC is not keen to soil its hands in this business. It is thus scouting for a company that can set up a coal washery at Talcher coal mine in Orissa on build-own-operate basis.

The fact that power sector is the largest and first priority user of coal has encouraged Union Power Ministry and SEBs to act as facilitators for allocation of coal mining blocks to companies interested in setting up coal-fired power generation projects.

Take the case of Power Ministry's latest initiative to facilitate settting up of merchant power plants. The Ministry says : "Merchant power palnts would be provided coal linkage for any capacity upto 1000 megawatt and may be allocated captive coal blocks for plant capacity in the range of 500-1000 MW."

Even Hydel super power Himachal Pradesh Government has succumbed to the desire of facilitating setting up of a 500 MW coal pit head-based power plant and development of associated coal mine through the joint venture route.

Himachal Pradesh Infrastructure Development Board would like to leave every thing from locating project site to mobilizing entire project finance to joint venture partner!

All these instances shows that restrictive captive coal mine allocation policy has offered direct or indirect rent-seeking opportunities to government agencies of all hues.

This should serve as eye-opener for the Central Government to implement its 1997 policy **to throw open coal mining to private sector without any conditionality about captive mining.**

The successive Governments have felt over-awed by the might of public sector coal workers' trade unions. They have thus not proceeded forward with the requisite enabling legislation to implement this policy. The Coal Mines (Nationalisation) Amendment Bill, 2000 has thus **remained in Rajya Sabha since its introduction on 24 April 2000.**

Apart from enacting this law, the Government ought to take away coal mining blocks that Coal India Limited (CIL) and its subsidiaries have been sitting for years without any effort to develop them. The Government has kept 289 blocks with CIL group. An additional 230 blocks have been listed as non-CIL blocks. Of these, 136 have been earmarked for captive mining by specified industries.

The coal sector should go be the oil and gas way that is subject to prospecting-cum development licensing under the New Exploration Licensing Policy (NELP). Even Oil and Natural Gas Corporation (ONGC) and Oil India Limited (OIL) had relinquished several of their

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blocks and have been competing for the same assets with private sector companies under successive rounds of NELP bidding.

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