

An opportunity being lost in haste?

Ashok Sreenivas, Prayas (Energy Group), Pune

Following the cancellation of all captive coal block allocations, the Government had to act fast to ensure that about 74 blocks that are either producing or close to production are dealt with before 31st March 2015, so as to not impede production from these blocks. Accordingly, it first promulgated an ordinance in October and got the Coal Mines (Special Provisions) Bill based on the ordinance passed in the Lok Sabha. As expected, the bill provides the framework for auctioning or allotting the cancelled coal blocks. Unfortunately, in its eagerness to pass the bill and send out a signal that it is keen on reform, the Government may be setting the stage for an uncertain and potentially litigious future, when ambiguities in the coal allocation policy have already resulted in many on-going suits.

Clauses 4(2) and 5(1) of the bill contain provisions that permit coal mining for “any purpose” that may be stated in the mining lease granted. It also seeks to amend the Coal Mines (Nationalization) Act and the Mines and Minerals (Development and Regulation) Act similarly. This effectively permits commercial mining, simply by allowing it in the mining license given to a block holder. While commercial mining may be a valid option for consideration, introducing it in such an off-hand manner ignores many crucial related issues such as pricing and regulation. Given that about 80 million households do not have access to electricity, lack of clarity regarding pricing is ingenuous since coal contributes about 70% of the country’s electricity and about half the cost of supplying such electricity is coal price. Silence on the regulatory and oversight mechanisms is also a concern given the not-so-successful experience from the oil-and-gas sector in spite of greater thought having gone into the design of its privatization regime. Notwithstanding the minister’s statement that this Government does not intend to introduce commercial mining, it is a little disconcerting that, if this bill becomes an Act, a current or future Government could legally permit even coal exports by merely issuing an appropriate mining lease, without having to consult the Parliament!

The bill allows coal blocks to be allotted to power generators that have won tariff-based bids. This could be another slippery issue and raises many questions. Would the competitively discovered tariffs of such power generators be revisited, since producing coal from captive mines would be cheaper than otherwise? Would state electricity regulators realistically have the powers or capacity to deal with these issues? Would it encourage those who lost the tariff-based bids to pursue litigation, since captive block auctions were not available at the time of bidding? Similarly, complications could also arise from the provision permitting those already having coal linkages to bid for coal blocks.

Thus, on the one hand, the bill could set up a fertile ground for disputes and complications. On the other hand, by focusing exclusively on coal block auctions, it ignores many other critical issues with the coal sector such as low productivity, poor accountability for coal supply, poor social and environmental record (particularly given that coal bearing areas are also among the poorest in the country), labour safety and rights in a dangerous work environment, law and order problems and an institutional vacuum to deal with these issues.

Given these circumstances, the coal sector is in need of comprehensive reforms to deal with this complex set of challenges. Such reforms need to be carefully designed based on extensive consultations given the critical nature of the sector and its inter-linkages with other crucial sectors

such as power, land, environment and law and order. The reforms should also pay attention to institutional structures and processes, which are typically blind spots of Indian governance. In short, the current crisis should be used as an opportunity to comprehensively overhaul a much neglected sector, rather than just dealing with the immediate issue of coal block auctions.

So, what could be the way forward? Note that the only real urgency is with respect to the 74 blocks. So, immediate legislative or executive action could focus only on these blocks, which is easily done by scrapping Section 30 and Schedule IV of the bill, and perhaps removing references to Schedule I mines. Simultaneously, the Government could earnestly initiate a comprehensive re-imagining of the coal sector by either forming a committee of experts (from within as well as outside the Government), or requesting the concerned Parliamentary Standing Committee to draft a roadmap for the coal sector. The committee should follow a transparent and highly participative process, and could have the necessary bills drafted by, say, the monsoon session of 2015. This will present the country with an opportunity to have an effective, efficient and responsible coal sector. The current bill is likely to be tabled in the Rajya Sabha soon. One hopes these issues get sufficient attention there before the bill becomes an Act, which becomes difficult to wriggle out of.