

## **54. Graft in allocation of mineral wealth stymie growth**

**By Gopal Krishna Agarwal,**

Tampering of records and corruption has become the hallmark of this government. On several occasions CAG has vindicated this government, whether it is Commonwealth games or allocation of 2G spectrum and coalfields. In yet another revelation, the government auditor CAG has said last week that in several cases, under the government loan waiver scheme, ineligible farmers were given benefit while deserving ones were left out. It also found instances of tampering of records. Besides other observations the report said that the Micro Finance institutions (MFI) were given benefit under the scheme in violation of the debt waiver guidelines, even private sector banks claimed undue benefits like penal interest, legal charges, and miscellaneous charges from government, which were to be borne by them only. Earlier CAG audit had observed that the procedures followed for allocation of coal blocks lacked transparency and it failed to arrive at the optimal price at which allocation of blocks should have been made. MoC had recognized that there was a substantial difference between the price of coal supplied by CIL and the cost of coal produced through coal blocks allocated for captive mining and as such there was a windfall gains to the allottees. Audit worked out such windfall gains at Rs. 6.31 lakh crore (PSEs Rs 3.37 lakh crore and private parties Rs. 2.94 lakh crore) based on the prices prevailing during the year of allocation. According to this writer the most important aspect in the realms of development of the nation is the allocation of natural resources. The current conflict that we can see all around, whether it is the unrest of tribal people, agitation of farmers over the acquisition of their land or the dilemma of the policy makers on allocation of coal and mineral blocks etc. is regarding its valuation and the beneficiary ownership on the basis of which, the quantum of compensation and its recipient has to be decided. Socio-economic development can take place only after proper and justified allocation of natural resources. The flaw at the policy level cannot be overcome through administrative mechanism. If the policies are right the administration can be held accountable. The basic question, which we all have to answer and consider is, who owns Natural resources, particularly land, water and mineral? Broadly there are three form of ownership: individual/ private, state ownership or no body. Our constitution guarantees the right to use. When it comes to the ownership of natural resources of the country the

Higher Courts in India have invoked Article 39(b) of the Constitution which says that the State shall in particular, direct its policy towards securing the ownership and control of material resources of the community so distributed as best to sub-serve the common good. Going through a number of judgments of Supreme court and High courts on matters concerning ownership of natural resources and their allocation referring to Article 14, Article 39(b) and other relevant Constitutional provisions, we arrive at the conclusion that, certain natural resources like air, water, forests etc cannot be privatised at all. The ownership of a limited number of resources like mines, oil fields etc can be transferred to the private sector but they too would be bound by the relevant statutory and constitutional provisions and this change of ownership can only take place if it sub serves the public good. Constitution also acknowledges that the state is a trustee of all resources. As a trustee of all natural resources it has a legal duty to protect them. The Public Trust Doctrine primarily rests on the principle that certain resources like air, water and forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the government to protect the resources for the enjoyment of the general public rather than to permit them for use as private ownership. But, no comprehensive legislation has yet been enacted to define natural resources (including minerals) and a framework for their protection. The important issue in allocation of these resources for productive and fair manner is the participation of public and private sector, degree of transparency, its captive use etc. A wide public debate is required for an effective legislation that ensures right of people over their natural resources. We need to move forward in the background of all these conflicts, one very important consideration in acquisition laws of resources is Eminent Domain. There can be disagreement that the interest of an individual is subservient to that of the society. This provides the state (which supposedly acts for all and on behalf of the community) with the power to acquire the property of an individual without his/her consent, provided it is for the public purpose. The problem arises because there is no consensus on, whether a given project is in the larger interest of the community or not? Corruption in the state has started defining all kind of activities as public purpose: from making cycle to shoes etc. when individual resources or common property resources are lost on above pretext, it is bound to agitate everyone. The world is made of five basic elements Panchtatva and our existence is based on them. These are all adequately provided by the nature. The purity of these elements has to

be maintained and preserved. When the nature is exploited; its balance will be disturbed leading to ecological imbalances and destruction of life. One of the very important elements is water, symbolising human existence. The ownership of this important element has a large-scale implication on the future of humanity; the concept of private ownership and commercialisation of any of these elements is not in the interest of humanity. A concept, which is not good for the humanity can never be beneficial to a nation. We found that there was a general consensus on the issues, in a series of our discussions and deliberations on the subject with various stock holders including courts and the government. But still at the implementation level there was a complete divergence. All governmental actions point towards creating private property with regard to these resources and its commercialisation as a commodity in the name of conservation. This is being done under the garb of public private partnership (PPP). This dilemma of the policy maker has to be exposed and checked. At present we have two categories; an affluent and a powerful class, which has dominance on every aspect of our policymaking and its implementation. They can afford everything. For them availability is more important than affordability. In their business model, scarcity and commercialisation is a means of creating wealth. Though we believe, that the private ownership is a major motivator of entrepreneurship and generation of wealth, but our primary concern is the other class i.e. the common man, who, under the baggage of historical conditions of subversion and exploitation was left behind in the race. The society should be structured in a way that all its components or the stakeholders are taken care of, without any discrimination of caste, creed, religion or wealth. The government is duty bound to provide for the basic needs of all the citizens of the country. This duty has been cast on it under the adopted constitution by the people of this Sovereign, Democratic, Secular, Republic. India at present is caught in a dilemma. The western countries want us to believe; that the economic thinking has to be within a close jacket and the perceived solutions are to be based on certain assumptions, which are sacrosanct. There can't be any deviations. But the fact is that these basic tenets of capitalist economy are subject to scrutiny. In addition to materialistic worldview there is a spiritual aspect to human existence. Where, all our actions are guided by natural laws without any interference of subjective considerations. These subjective considerations usually act as a divisive force to universal brotherhood. With failure of capitalism and global financial crisis, the pitfalls of western economic model are quite evident. Economy cannot run on adhocism. For the future of the country, long term perspective coming from clear vision is required. Socio-economic development of the nation is only possible

when there is judicious and equitable allocation of natural resources. People at the helm of affairs are not able to balance the aspirations of all stakeholders and take cohesive policy decision. Due to their insensitivity towards the unrest in society and problems thereof they have lost much of their relevance. If the mood of the Civil Society movements of the recent past are any indicator, then any adamancy on the part of the powerful about ignoring the aspirations of the common man will lead to a major unrest. I have been very closely related to all these movements from the beginning and there has been a feeling that, in dealing with the common man, the ruling class is not sincere in its approach. All political and social dispensations in the country have to be aware of this aspect.