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Quest for Justice for Indian Mica Miners: An Enviro-Human Perspective

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ABSTRACT

Beauty sometimes hides harsh truth behind. No cosmetic can be imagined to be manufactured without the presence of Mica. India, being one of the large exporters of Mica, holds large reserves of Mica in its Eastern and Central Region, covering states like Jharkhand, Chhattisgarh etc. The region is one of the backward regions of the nation where illegal mica mining is the main source of livelihood for the poor and destitute people living in the region. Being famed for the issue of child labour and environmental degradation, mica mining is primarily the root cause of Environmental-Human rights violations in the region. Mica mining is not only hazardous to human beings but also the flora and fauna in the region. The present paper discusses the issues regarding the violation of the Environmental-Human Rights of the people living in these areas primarily children. The paper also discusses the provisions of constitutional and Environmental laws dealing with mica mining, the role of stakeholders in illegal mining along with recommendations for resolving the issues.

I. INTRODUCTION

Have you ever wondered where the glitter in auto paints and beauty products comes from? Mica is popularly also known as *dhibra*, a crystalline material used in car paints, electronic appliances, beauty products etc.. India being one of the largest exporters of mica holds nearly 60% of total mica reserves in the world. Majority of the Mica comes from the States like Jharkhand, Madhya Pradesh etc. with Jharkhand being the biggest producer of Mica. It is very ironic that the poorest persons of the nation live in the area bestowed with such precious minerals in abundance. Through analysis of the manner in which Mica Mining is being carried out, it is not incorrect to state that Mica provides beauty to the rich but snatches smiles from the poor.

Mica Mining though acts as an important source of livelihood for the people living nearby by mining sites but mining also in itself contributes to various health, economic and environmental issues such as child labour, exploitation of workers, deforestation, habitat destruction etc. Mica

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picking a very delicate process for which people have to scrap silicate off the ceiling³, often children below the age group of 10 years are engaged in the process of mica picking. Plucking mica flakes from their bare delicate hands often ends up in causing cuts, bleeding etc. Koderma and Giridih districts of Jharkhand are not only known for mica mining but also for the issue of child labour used in the mica mining sites.

Mica mining being a labour intensive possession which requires children to go through narrow shafts for extracting mica however, shafts frequently collapse⁴ and children are being trapped into it. They are often being forced to go underground and at times they find themselves in complete darkness. It is pertinent to note that engagement of children between the age group of 6-14 years in such hazardous activity is complete violation of Art. 24 of the Indian constitution which prohibits employment of children in factories etc, which states that “*No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.*”

II. CHILD LABOUR AND MICA MINING

It is pertinent to note that with the implementation of Forest Conservation Act, 1981 Mica picking and mining activity became an illegal act. Mica became a deemed forest product and its mining cannot be undertaken without prior permission of the Union Ministry of Environment, Forest and Climate Change. Mining companies began winding up their operation in the region as the concerned authority refrained from issuing new leases for undertaking mining operations. It was only in the year of 2000 when the complete ban on mica mining came to halt completely. However, despite it becoming a banned activity it is being carried out illegally. The contractors use abandoned sites for extracting mica by engaging poor people, mostly children between the age group of 6 to 14 years. Furthermore, without any other means of livelihood, the locals were left with no option but to extract mica from mould and sell the same in the local market for earning livelihood.⁵

Moreover, there are a large number of school dropouts in Koderma and Giridih districts due to mica mining. Deprived of basic amenities like food, shelter, clothing and living in abject poverty, compels families living in the region to send their children for mica mining. This not only deprives them from the Right to Education as guaranteed under Art. 21 A of Indian

³ Anwesha Das & Aarushi Goel, *An Assessment of Illegal Mica Mining in Jharkhand*, 4 International Journal of Law Management & Humanities (2021).

⁴ Katarzyna Rybarczyk, *Ending Child Labor in Mica Mines in India and madagascar stopchildlabor* (2021), <https://stopchildlabor.org/ending-child-labor-in-mica-mines-in-india-and-madagascar/> (last visited Jul 4, 2022).

⁵ Ganesh, P., Mishra, S. B. and Yadav, S. P., *Issues and challenges of Indian mica industry*. *Inventi Impact – Tech. Res. Rev.*, 2015, 4, 187–190.

Constitution but also shows failure on the part of the Government in providing education to the children belonging to the most needy and destitute class of the society. Education in one's life holds an important position, making individuals aware about his rights and how to exercise his rights. Without education holistic development of an individual is not possible. Education provides him with the faculty to understand what is right and wrong and what steps must be taken for effective implementation of rights.

Apart from being deprived of education, children are being paid very less for the quantity of minerals extracted. Furthermore, the conditions under which they are made to work are inherently dangerous to their life and health. Working in Mica mines and extracting the same, they are constantly being exposed to Mica dust causing respiratory disease like tuberculosis, lung ailments and asthma. Etc. Furthermore, they are often sexually being harassed either by adult co-worker or by the employer.⁶ There are instances of molestation, eve-teasing and harassment of small girls by the employer or contractor. It is important to note that most of the children are either being compelled by the families or by contractors to engage in this hazardous activity.

Furthermore, the engaging Children in mica mining is in the violation of Child Labour (Prohibition and Regulation) Act, 1986. The act prohibits engagement of children below the age group of 14 years age. While S.3 read with Part A of the schedule prohibits employment of Children in mines. Therefore, making engagement of children below the age group of 14 years is an illegal activity.

III. THE LEGISLATIONS

The enactment of Child Labour (Prohibition and Regulation) Act, 2016 not only widened the scope of 1986 Act but also made punishment for violation more stringent. The 2016 Act not only prohibits employment of Children in hazardous occupations but also prohibits engagement of adolescents in such activity. Further, S. 18 of 2016 Act, makes employers liable for imprisonment from 6 months to 2 years or for a penalty of Rs.20,000/- to Rs. 50,000/- or both for the first time⁷. However, in case of a habitual offender, the person is liable for imprisonment from 1 year to 3 years. In case the offense is being committed by the parent then he /she is liable to a penalty of Rs. 10,000/- .

The Act also makes Child Labour a cognizable offence by virtue of S.19 of the Act. Further,

⁶ Madhukar, B. B. L. and Srivastava, S. N. P., *Mica and Mica Industry*, Taylor and Francis, 1995.

⁷ Diva -Rai et al., *Child labour: All you need to know in Indian context* iPleaders (2022), https://blog.ipleaders.in/child-labour-laws-in-india/#Child_Labour_Act_1986 (last visited Jul 4, 2022).

S.19 of 2016 Acts provides not only for rehabilitation of rescued children or adolescents but also creates a Rehabilitation fund under which money is required to be contributed by the employer to be used for the rehabilitation of such children.

However, despite of the existence of several laws, constitutional provisions and government agencies working towards prevention of Child Labour in the country, Child labour in mica mining remains to be an unresolved issue. About 22 thousand children between 6-14 years of age are being trapped in hazardous mining of mica. Despite of threat of being buried alive, bringing food on the plate remains to be an imperative job⁸ for the families and they don't mind employing children in such hazardous mining. The door to education of the children in mining activity is either being closed by the employer, inefficient administration or by their very own relatives. Art. 51A (k) of the constitution makes guardian or parent liable to provide facilities for education to his child from 6-14 years however, the families living in such poverty stricken areas with lack of job opportunities are left with no other option to send their children for mica mining rather than attending schools.

Furthermore, the conditions of work in such mines are risky and life threatening. Apart from a constant threat of being buried alive the children are exposed to skin infection, bleeding respiratory diseases and head injuries⁹. Accumulation of ore dust in intestines causes interstitial problems along with eye infections caused due to exposure to ore dust are common among children engaged in mica mines. Further, enactments such as Mines Act 1952 provides for setting up safe working conditions at mines which are often not paid any heed by the employers, leaving children unattended at mine sites leading to accidents and exposure to insanitary and polluted environments. Children are being forced to drink contaminated water at mine pits with no or lack of nutritional food being provided to them. They are compelled to work for long hours and are paid a minor amount for their extensive labour.

Despite of the enactment of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 which seeks to provide safe working environment to females, they are being subjected to sexual exploitation by the employers or co-workers at the sites. This gives birth to other issues like sex trade and immoral child trafficking involving forceful engagement of minor girls by the employers.

⁸ Shweta Sengar, Exploitative child labour in India's illegal mica mines is behind the Shimmer in your makeup IndiaTimes (2019), <https://www.indiatimes.com/news/india/exploitative-child-labour-in-india-s-illegal-mica-mines-is-behind-the-shimmer-in-your-makeup-374431.html> (last visited Jul 4, 2022).

⁹ Kim Thelwell, Mining for mica: Child labor in India The Borgen Project (2021), <https://borgenproject.org/mining-for-mica/> (last visited Jul 4, 2022).

IV. ENVIRONMENTAL IMPACTS OF MICA MINING

One of the prominent sayings is that not all natural resources are necessarily good. Mica is a versatile and precious mineral being used for a variety of purposes. However, this precious metal not only carries with itself cost of child labour but also environmental issues. Mica mining seriously affects the environment of the areas surrounding the mining site.

Mines and quarries pose a great threat to soil and are major contributors towards soil pollution. Mining sites and the areas surrounding them become toxic to plants and animals due to mica extraction. Further, their accumulation in plants makes them unfit for human and animal consumption. Furthermore, explosives and use of machines for mining mica emit toxic substances, which damages the landscape of the region.

It is pertinent to take into account that mica mining often involves felling of large stretches of trees for creation of mining sites. Deforestation so caused comes with its own negative impacts on the environment of the region such as reducing air quality of the region, increasing global warming and habitat destruction etc. Furthermore, deforestation causes soil erosion and floods in the region which affects the ecosystem of the place. However, during the process of displacement many wildlife species lose their lives. Such activities involving felling of Trees or clearing huge area of forest land violates various environmental laws including Indian Forest Act, 1927 which seeks to keep a check on the deforestation causing ecological imbalance and leads to environmental deterioration and puts restrictions on use of forest land for non-forest purposes without prior approval of the Central Govt.

Another important issue is that deforestation as a result of mining causes habitat destruction. Habitat destruction may lead to species to the verge of extinction. Like human beings have cities and villages where they live, forests are homes to wildlife. Destruction of forest makes them vulnerable to issues like poaching, non-availability of food and shelter. Destruction of habitat makes it very difficult for the species to survive and thereby, cause wildlife displacement at a massive scale.¹⁰ Endemic species are the most severely affected species which are found only in specific ecosystems suitable to their biological structure; however habitat destruction can cause extinction of certain species. Open cast mining often includes removal of many forest resources including topsoil. At times the mining sites are left in potable states after mining operations are being carried out.

Mining activities often involve air pollution. Despite taking strict measures air pollution at

¹⁰ IBM, Indian Minerals Yearbook 2016 (Part-III: Mineral Review) 54th Edition, MICA (Final Release), Indian Bureau of Mines, Ministry of Mines, GoI, 2017

mining sites is prone to take place due to the nature of mining operations. During such operation dust particles are being released in the environment of the mining sites. These particles not only cause pollution but also cause serious respiratory diseases to wildlife and workers at mining sites. Such exposure has the ability to cause diseases like TB, asthma etc. and also reduces the lifespan of various species. Children and women are most vulnerable to such diseases. Since, illegal mica mining generally involves children who are more prone to respiratory and other infections seriously affecting their health. The Air pollution caused by the mining activities stands in violation with The Air (Prevention And Control of Pollution) Act, 1981 which aims to prevent, control and abet air pollution. S. 16 and S.17 of the concerned act gives powers to the Central Pollution Control Board (CPCB) and State Pollution Control Board (SPCB) respectively to perform all such functions which aim at preventing, controlling and abetting air pollution. It also empowers the SPCB to order closure of any industrial unit if it is found highly polluting. S. 21 makes it mandatory for the persons who are operating or wish to operate any industrial plant to take prior assets of the SPCB prior to the commencement of their operations especially in an area so declared as air pollution control area by the SPCB. Further, the act penalises individuals, companies and government departments for their actions causing air pollution.

It is being found that if mining operations are being carried out after proper analysis of their impact on the environment, then chances of them being negatively affecting the environment reduces significantly. However, most of the mica mining operations in the nation are being conducted without any such analysis. Mining activities can cause significant environmental degradation and industrial pollution depending on the technology and the mining methods being used. There may be loss of vegetation, land degradation, ecological imbalance caused by expiration and development of mines. Mining dumps and tailings are frequently being viewed as the primary source of solid waste¹¹. Mining activities lead to disposal of toxic substances in the water bodies accusing ground and surface water pollution. Thereby, making water unfit for drinking, bathing etc., for the humans and other living creatures of the concerned area. At times such activity may have a long lasting effect on the environment and the living creatures causing living beings to suffer from lifelong diseases as mentioned previously. Apart from it it may cause migration of the wildlife of the area due to habitat loss.

Mining operations especially in India are being carried out without conducting Environmental

¹¹ Farhad Samimi Namin, K. Shahriar & Atac Bascetin, *Environmental Impact Assessment Of Mining Activities. A New Approach For Mining Methods Selection*, 27 *Gospodarka Surowcami Mineralnymi* 113–143 (2011), https://www.researchgate.net/publication/281106625_Environmental_Impact_Assessment_Of_Mining_Activities_A_New_Approach_For_Mining_Methods_Selection (last visited Jul 6, 2022).

Impact Assessment under Environment Protection Act, 1986. Environmental Impact Assessment (EIA) is conducted to know the possible damage or harm proposed commercial activity is going to cause on the environment of an area. EIA analyses both beneficial and negative consequences¹² of the proposed activity. Through EIA we can identify possible effects of the proposed project on the environment, suggesting measures for mitigating harmful effects on the environment and predicting significant adverse environmental effects on the environment even after the application of measures¹³.

The Ministry of Environment Forest and Climate change issued Environmental Impact Assessment Notification in 2006 for regulating environmental clearances under EPA. Under EPA an Environmental Management Plan is being prepared¹⁴ and further environmental clearance is being granted containing the conditions for minimising the environmental impacts of the concerned project. It further allows the central government to impose compensatory afforestation in the area where mining occurs.

Mining activities affect the biological diversity of the mining areas and the areas surrounding the mining sites. The pollution caused by the mining activities compels wildlife to migrate to other areas, causes diseases among the plants and animals of the area thereby, endangering their lives. Many times wild animals are being killed to ensure the safety of the people working in the mines. This causes destruction of wildlife in the area. According to Shivshankar Ray, resident of Koderma District of Jharkhand *“Earlier, elephants and wild boars often trespassed into our villages. Some species of rare birds were also spotted but nowadays they are hardly seen,”*¹⁵ As mentioned previously the Koderma District is known for illegal mining activities. Effects of mining operations are more severe especially if the mining activity is being carried out in areas considered as biological Hotspot i.e. are where a large variety of flora and fauna exists. Such biological destruction by mining operations stands in violation to The Biological Diversity Act, 2002 which aims at conserving and developing areas which are important from the standpoint of biological diversity, securing protection and rehabilitation of threatened species etc. Further, the offences under the act are cognizable and non-bailable in nature thereby, ensuring strict actions against the violators.

¹² Understanding eia, Centre for Science and Environment, <https://www.cseindia.org/understanding-eia-383> (last visited Jul 6, 2022).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Gurvinder Singh, Mica scavenging in Jharkhand destroys lives and environment Mongabay (2019), <https://india.mongabay.com/2019/10/mica-scavenging-in-jharkhand-destroys-lives-and-environment/> (last visited Jul 6, 2022).

V. CONCLUSION

Mica mining plays an important role in economic development of the nation by earning foreign exchange against the export of mica. However, the dark side of the mica mining is that it is also the main culprit behind the issues of Child Labor and Environmental degradation. Children from a tender age are being hired and are made to work in inherently dangerous mica mines for a pitiful amount of money. Furthermore, Mica mining can cause environmental degradation having a long-lasting effect on the ecosystem of the place. Despite having laws for preventing such issues, illegal mica mining continues to cause socio-environmental problems in the region which needs to be handled expeditiously and judiciously ensuring sustainable development from taking place.
