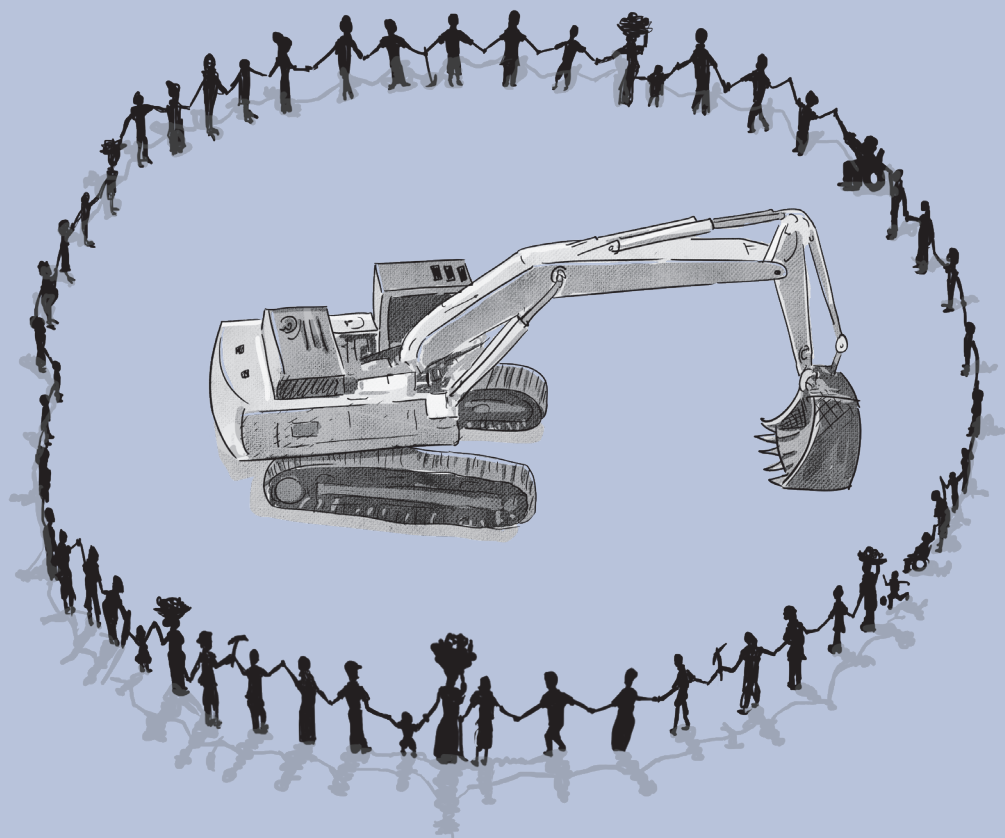


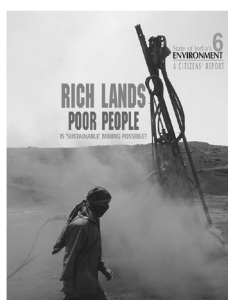
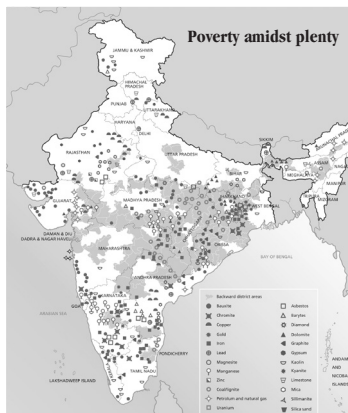
JHARKHAND

# District Mineral Foundation

**The right of people to benefit from  
the mineral-rich lands they live on**



It is ironic that India's mineral-rich districts are also those where some of the country's poorest live. This deep economic and social inequality also afflicts Jharkhand, a key mining state of the country. According to latest poverty estimates of the Government of India, about 41 per cent of the people in rural areas of Jharkhand fall below the poverty line, much higher than the national average of about 26 per cent. Further, 19 districts in the state have been identified as backward by the Planning Commission. The situation is worse for tribal population in these areas; nearly 54 per cent of them fall below the poverty line.



For India's democracy, this inequality has remained a dark aspect. In 2008, Centre for Science and Environment published a citizen's report, *Rich Lands Poor People: Is Sustainable Mining Possible?*, asking for a new social and environmental contract to address the inequality that burdens mining affected areas. A decade of discussion and negotiations has gone into addressing this through various platforms. In 2015, finally, India's Central mining law, the Mines and Minerals (Development and Regulation) Act (MMDR) of 1957, was amended and District Mineral Foundation (DMF) was instituted.

With DMF, for the first time, the right of people to benefit from natural resources has been recognized. This is a defining opportunity to rewrite the contract between rich lands and its poor people.

# District Mineral Foundation

## What? For whom? How?

### What is District Mineral Foundation?

District Mineral Foundation (DMF) is a non-profit statutory 'Trust' for every district affected by mining-related operations to protect the interest of communities and benefit the people in those areas.

### Why was it established?

For years, mining has benefitted mining companies, individual miners and governments, not the communities living there. Because of mining, people are displaced from their land and suffer other negative consequences like break-up of the society and pollution, but are never adequately compensated. This is the reason for the poor socio-economic and environmental status of most mining affected districts.

**DMF is a vehicle for people to benefit from mining, which they have been denied for decades. It is strictly targeted to serve the communities/people in mining-affected areas.**

### Under which law is this recognized? What does the law say?

- ▶ DMF is recognized under India's central mining law, the Mines and Minerals (Development and Regulation) Act (MMDR) of 1957, as amended in 2015. Section 9B of the MMDR Act gives specifications about DMFs
- ▶ The objective of DMFs have been clearly spelt out in the Section 9B (2) of the MMDR Act (amended in 2015) as **'to work for the interest and benefit of persons, and areas affected by mining-related operations'**.
- ▶ The specific law concerning DMF in the state is the Jharkhand District Mineral Foundation (Trust) Rules, 2016.

*The objective and functioning of DMF are also guided by constitutional provisions as it relates to Fifth and Sixth Schedules for governing tribal areas, the provisions of the Panchayats (Extension to Scheduled Areas) Act (PESA), 1996, and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – the Forest Rights Act (FRA).*

### Who is entitled to benefit?

- ▶ Communities/people in areas affected by mining;
- ▶ People having legal and occupational rights over the land being mined;
- ▶ People having 'usufruct' (user rights) and 'traditional rights'.

## Who can be called an affected person?

- ▶ **Affected families** will be the ones as given under Section 3(c) of Land Acquisition, Rehabilitation and Resettlement Act, 2013. These include:
  - Families whose land or other immovable property has been acquired for mining activity;
  - Families that do not own any land but a member/members may be:
    - a. Tenants (including any form of tenancy), or holding usufruct rights over the land,
    - b. Agriculture labourers,
    - c. Share-croppers or artisans working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood has been affected by land acquisition.
  - Scheduled Tribes, other traditional forest dwellers who have lost any of their forest rights as recognized under the Forest Rights Act, 2006 because of land acquisition;
  - Family whose primary source of livelihood for three years has been dependent on forest or water bodies prior to land acquisition;
  - A family member whom the Central or state government has assigned land under any of its schemes and such land is under acquisition.
- ▶ **Displaced families** as given under Section 3(k) of the Land Acquisition, Rehabilitation and Resettlement Act, which include any family displaced, relocated or resettled from the affected area to a resettlement area because of land acquisition for mining activity.
- ▶ People who have **legal and occupational rights, and also usufruct and traditional rights** over the land being mined.
- ▶ **Any other as appropriately identified by the gram sabha.**

## How do I determine if my area will be considered mining-affected?

An area can be directly or indirectly affected by mining.

### **Directly affected areas include:**

- ▶ Areas with direct mining-related operations, such as excavation, mining, blasting, beneficiation and waste disposal (overburdened dumps, tailing ponds, transport corridors etc.);
- ▶ Villages and gram panchayats within which mines are situated;
- ▶ Areas that fall within a radius (defined by the state government) from a mine or cluster of mines. Such directly affected areas can extend to neighbouring villages, blocks, districts or states;
- ▶ Villages in which families displaced by mines have resettled/been rehabilitated by project authorities;
- ▶ Villages significantly dependent on mining areas to meet their economic needs and have usufruct (user rights) and traditional rights over the project areas. For e.g. where grazing lands or lands from which forest produce is collected are affected by mining.

### **Indirectly affected areas include:**

- ▶ Areas where the local population is adversely affected by economic, social and environmental consequences of mining-related operations. These include deterioration of water, soil and air quality, reduction in stream flows and depletion of groundwater, congestion and pollution due to mining operations, transportation of minerals and increased burden on existing infrastructure and resources.

---

---

**The Trust will identify affected areas and people. The gram sabha must, however, be consulted to identify affected people/families.**

---

---

### **Who will run the DMF?**

- ▶ The DMF will have a Governing Council and a Managing Committee, both headed by the Deputy Commissioner.
- ▶ Besides officials, Governing Council includes political and community representatives. The Managing Committee has mainly government officials.

Some **key roles of the Governing Council** will be:

- ▶ Coordinate in annual planning of DMF; constitute sub-committees like a planning committee for such purpose;
- ▶ Review activities undertaken by the Trust;
- ▶ Conduct social audits of development schemes/works of gram sabhas;
- ▶ Sanction appointments of officers and auditors;
- ▶ Has the power to file a complaint/register an offence against any member of the Managing Committee (*including the chairperson*); can remove any/all members of the Managing Committee (*except the chairperson*);
- ▶ **The Council has to meet at least once in three months.**

Some **key roles of the Managing Committee** will be:

- ▶ Oversee the day-to-day functioning of the DMF, ensuring timely collection and administration of funds;
- ▶ Coordinate and develop the annual plan and projects to be undertaken by DMF money;
- ▶ Approving the lists of work under priority and other priority-area beneficiaries as identified by the Committee;
- ▶ Distributing monetary benefits to the beneficiaries (*those living under the poverty line, orphans, widows, single mothers, physically challenged persons, senior citizens etc.*) under extreme cases on approval of the Governing Council;
- ▶ Prepare work reports, maintaining accounts etc.;
- ▶ Prepare and present audit reports for ratification to the Governing Council.

# Institutional structure of DMF

## Governing Council



### Official representatives

- Deputy commissioner
- Deputy development commissioner
- Superintendent of police
- Senior-most divisional forest officer (territorial) of the district
- District education officer
- Civil surgeon-cum-chief medical officer
- Related deputy director of mines
- Related deputy director, Geology
- Representative of district board
- District/assistant mining officer



### Political and community representatives

- Representative of Honourable Member of Parliament
- MLA of the district or his/her representative
- Elected pramukh and up-pramukh of directly affected area
- Elected mukhiya and upmukhiya of directly affected area



### Industry representatives

- Two leading-mine owners nominated by the Governing Council
- Representative of Jharkhand Small Industries Association

## Managing Committee

- Deputy commissioner
- Deputy development commissioner
- Superintendent of police
- Senior most divisional forest officer (territorial) of the district
- District/assistant mining officer
- Civil surgeon-cum-chief medical officer
- District panchayati raj officer

## How much money will come to the DMF?

Miners/mining companies operating in the district will pay directly to the DMF Trust of that district as per the rates below. Payment to be made for major minerals (*e.g. coal, iron ore and bauxite*):

- ▶ 10 per cent of royalty paid to the state government for leases granted on or after 12 January 2015;
- ▶ 30 per cent of royalty for leases before that.

*Payment for minor minerals (e.g. sand, stone) is yet to be determined by the Jharkhand government.*

---

---

**The money coming to DMF must be spent on development works and activities that will address the basic needs of people in mining affected areas and benefit them directly.**

---

---

## How and for what should DMF money be used?

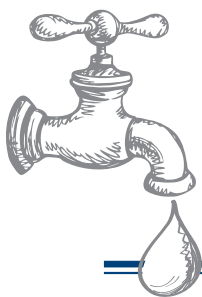
This is the most crucial question. To implement and utilise the DMF funds properly, the Central government in September 2015 launched the Pradhan Mantri Khanij Kshetra Kalyan Yojna (PMKKKY). It gave clear guidelines regarding where DMF money use is to be prioritized.

Broadly, **THREE** key things should be checked to ascertain the effective use of DMF money as specified by PMKKKY. DMF money should be used to:

- ▶ implement various developmental and welfare projects/programmes in mining-affected areas, and these will complement existing ongoing schemes/projects of the state and Central government;
- ▶ minimize/mitigate the adverse impacts during and after mining on the environment, health and socio-economic status of people;
- ▶ ensure long-term sustainable livelihoods for mining-affected people.

## How will planning happen for use of DMF money?

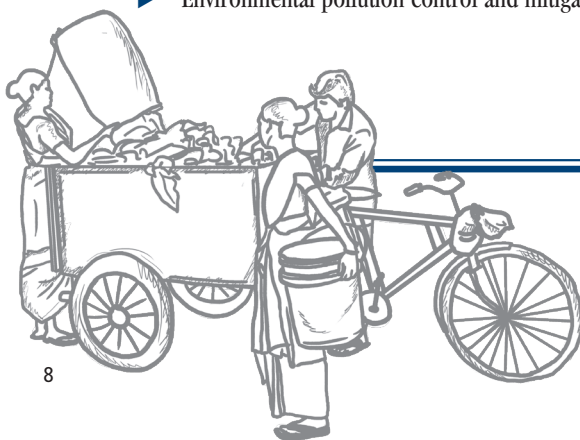
- ▶ The Trust will make an annual plan which will be operational for one year;
- ▶ Members of the DMF will prepare the annual plan taking into account the inputs/plans as received from respective gram sabhas;
- ▶ The final plan will detail out the type and quantum of development schemes/works to be implemented within a definite time frame;
- ▶ To execute the plan, the Trust will allocate money to the concerned authorities.



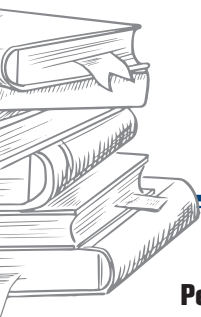
## So what works must DMF do?

Welfare programmes and activities can vary between mining districts. But there are High Priority Areas specified by law, where **at least 60 per cent** of the money must be used. They include:

- ▶ **Facilities for drinking-water supply**, such as centralized purification systems, water treatment plants and permanent/temporary water distribution networks, including standalone facilities for drinking water, piped-water supply etc.
- ▶ Proper **infrastructure for sanitation**, such as ensuring collection, transportation and disposal of waste, cleaning of public places, provision of proper drainage and sewage treatment (sewage treatment plants), disposal of faecal sludge, provision of toilets etc.
- ▶ Creation of **primary and secondary healthcare facilities** in affected areas and maintaining necessary infrastructure. Also, instituting a group insurance health scheme for mining-affected people.
- ▶ **Educational institutes and vocational training centres** and supporting infrastructures.
- ▶ **Welfare of women and children** through special efforts for addressing problems of maternal and child health, malnutrition etc.
- ▶ **Welfare of aged and disabled** people.
- ▶ **Skill development** for livelihood support, income generation and other economic opportunities. This can involve training programmes, developing skill-development centre, providing self-employment schemes, supporting self-help groups and entrepreneurship etc.
- ▶ Environmental pollution control and mitigation measures.



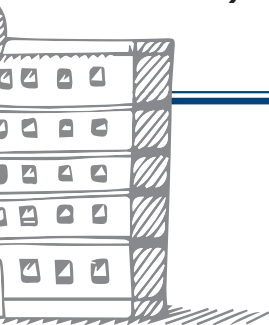




## **People must be vigilant to ensure that they get the right benefits.**

Communities **MUST** be wary of the use of money in schemes/projects/activities that have other dedicated funds or remain specific responsibilities of mining companies. For example, DMF money should **not be used** for:

- Environmental pollution control from mining activities: It is the responsibility of the mining company/individual to spend on pollution control (according to the environmental clearance(s), environmental management plan(s) and mining plan conditions). Once this is done a fraction of DMF money can supplement this.
- Afforestation: As there are funds available to the state under forestry fund/schemes such as Compensatory Afforestation Fund Management and Planning Authority (CAMPA), Green India Mission etc.
- Major sanitation infrastructure: As it is also under the Swachh Bharat Mission and other urban and rural development programmes. DMF money should supplement these initiatives and not be the primary source of money for these activities.
- Big infrastructure projects such as road building, railways and bridges: State governments have money earmarked for these. The law also specifies that **no more than 40 per cent of DMF money should be spent on making roads, bridges, railways, waterways projects, irrigation and alternative energy sources**. DMF money should be complementary to state funds available for infrastructure projects.
- **No more than 5 per cent of DMF funds should be used for administrative purposes.** The law specifies this.



## **Does the community have the power to decide where the money should be used?**

YES, the law does provide the opportunity for community to participate, particularly through gram sabhas.

---

### **Gram sabhas can be part of the following key activities:**

#### **Identify beneficiaries**

- ▶ Approval of gram sabha is required to identify beneficiaries in affected villages.

#### **Identify works to be carried out in affected areas**

- ▶ Gram sabhas in consultation with the mukhiya/up-mukhiya will identify the required work to be done in affected areas;
- ▶ Prepare annual plans based on the money estimate provided to them by the Managing Committee that is available from DMF Trust (*the committee has to give an estimate to the gram sabha at the beginning of the fourth financial quarter for the new financial year*);
- ▶ Pass a resolution and forward plan to the Managing Committee after verifying prospective activities. The quorum of the gram sabha meeting where a resolution will be passed shall not be less than 50 per cent of all members. It should include members from scheduled castes, scheduled tribes, other backward classes, women (*at least one third of the members present*);
- ▶ If the Managing Committee has any objection to the list of required works as submitted, it shall send it back to the gram sabha with appropriate reasons and specific comments in writing. Once the gram sabha forwards a revised list, it shall be approved and passed by the Managing Committee.

**The Managing Committee can verify but cannot override the activities to be carried out as proposed.**

#### **Monitor developmental schemes/works**

- ▶ The gram sabha will receive a report on the works undertaken in their respective villages after each financial year.
-

## How can I access information on the DMF of my district?

ALL information must be in public domain. Each Foundation must prepare and maintain a website where all information should be disclosed. This includes:

- ▶ Detailed composition of the DMF—the Governing Council and Management Committee;
- ▶ Quarterly details of all contributions received from lessees and others;
- ▶ A list of areas and people affected by mining;
- ▶ All meeting agenda, minutes of meetings and action-taken reports;
- ▶ Annual plans and budget;
- ▶ Work orders and progress reports of all the projects/programmes being undertaken, description of work, estimated cost, expenditure, name of implementing agencies, expected date of commencement and completion of work etc.;
- ▶ List of prospective beneficiaries and those who have benefitted from such measures;
- ▶ Annual report, including accounts and audit records;
- ▶ Other related information.

## How do I register a complaint if I or the people of my area are not receiving the stipulated benefits?

There are enough platforms through which complaints can be registered:

- ▶ **Gram sabha:** A person or community can bring a complaint to the attention of the concerned gram sabhas, as the gram sabhas have the power to approve all plans/programmes/projects to be taken up by DMF money, particularly in Scheduled Areas.
- ▶ **Managing Committee:** The committee is in charge of the day-to-day functioning of the DMF and can be approached to put forth a grievance or complaint.
- ▶ **Governing Council:** It is the overlooking body with political as well as community representation.
- ▶ **Court of law:** A case can be filed in the court against any irregularities or complaints regarding the functioning or works undertaken by the DMF Trust.

---

*For more information contact:*

**SRESTHA BANERJEE**

Phone: 09958550622 • Email: [srestha@cseindia.org](mailto:srestha@cseindia.org)

Website: <http://cseindia.org/content/districtmineral-foundation>

---



**Centre for Science and Environment**

41, Tughlakabad Institutional Area, New Delhi 110 062, India

Ph: +91-11-40616000 Fax: +91-11-29955879

E-mail: [cse@cseindia.org](mailto:cse@cseindia.org) Website: [www.cseindia.org](http://www.cseindia.org)