

## Illegal Mining in Rajasthan: Legal Challenges and Enforcement Mechanisms

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### 1. Introduction

Rajasthan is mineral-rich. It contributes significantly to India's output of limestone, marble, sandstone, granite, gypsum, wollastonite, barytes and several other minerals. This endowment underpins growth in cement, construction and dimension-stone industries, and provides livelihoods in otherwise arid districts. The same strength, however, makes the state vulnerable to illegal mining—operations carried out without a valid lease, environmental clearance, or in excess of the permitted area or quantity, or in prohibited zones such as forest land and riverbeds.

Illegal mining in Rajasthan takes three common forms:

- (i) extraction without any lease or permit, often at night or on fringe areas;
- (ii) over-extraction by lawful lessees beyond approved production limits; and
- (iii) mining or transportation without mandatory environmental, forest, or pollution consents. Sand (bajri) and masonry stone from riverbeds and hillocks, and over-burden "waste" converted to marketable stone, have been persistent hotspots.

The consequences are severe: loss of public revenue; threats to worker safety; conflicts with local communities; damage to rivers, groundwater, and biodiversity; and a rising informal economy that undermines rule of law.

This article maps the constitutional and statutory framework, highlights major judicial interventions, and examines on-ground enforcement challenges in Rajasthan. It closes with practical suggestions that can improve compliance and governance without hindering legitimate mining.

### 2. Constitutional Provisions

The Constitution does not speak of "mining" as a single subject, but the following provisions shape the legal landscape:

- **Distribution of legislative power:**
  - Entry 54, List I (Union List) empowers Parliament to regulate mines and mineral development to the extent it declares such control to be expedient in the public interest. Parliament exercised this power through the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act).

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- Entry 23, List II (State List) allows states to regulate mines and mineral development subject to the MMDR Act. States frame concession rules, grant leases for minor minerals, and run enforcement.
- **Environmental protection and public trust:**
  - **Article 48A** (Directive Principles) directs the State to protect and improve the environment and safeguard forests and wildlife.
  - **Article 51A(g)** casts a fundamental duty on citizens to protect and improve the natural environment.
  - **Article 21** (right to life) has been judicially expanded to include the right to a wholesome environment and protection from ecological degradation.
  - **Article 14** ensures non-arbitrary, transparent decision-making—relevant to allocation of leases, renewals, and enforcement actions.
  - **Articles 39(b)–(c)** guide the State to ensure material resources are distributed to subserve the common good and to prevent concentration of wealth—principles repeatedly invoked in mining cases.
- **Rights of Scheduled Areas and forest dwellers:**
  - Fifth Schedule and PESA, 1996 require consultation/consent of Gram Sabhas for projects in Scheduled Areas and strengthen community oversight.
  - Forest Rights Act, 2006 (FRA) recognizes forest-dweller rights and requires due process before diversion of forest land.

Together, these provisions support the idea that minerals are public resources held in trust, to be allocated and extracted only through transparent processes and with environmental stewardship.

### 3. Legal provisions

Illegal mining is policed through a network of central and state statutes and rules:

#### 3.1 Central framework

##### i. MMDR Act, 1957 (as amended):

- a. Defines the roles of Union and States, and the regimes for major and minor minerals.
- b. **Section 21** prescribes penalties, seizure of tools/vehicles, and recovery of the value of illegally extracted minerals. Section 21(5) allows recovery of mineral value and royalty from persons raising minerals without lawful authority.
- c. **Section 22** bars criminal courts from taking cognizance of offences under the Act except upon a complaint by an authorized officer—this shapes FIR practice and coordination with police.

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- d. **Section 23C** enables states to make rules for preventing illegal mining, transportation and storage.
  - e. Amendments in recent years increased penalties, tightened lease governance, and promoted auctions.
  - ii. **Mineral Conservation and Development Rules, 2017 (MCDR)** (for major minerals): operational standards, plans, reporting and IBM oversight.
  - iii. **Environment (Protection) Act, 1986, EIA Notification, 2006** and amendments: require prior environmental clearance (EC) for mining above specified thresholds and outline appraisal, public hearing, and post-clearance monitoring conditions. *Deepak Kumar v State of Haryana (2012)* extended EC requirements to minor minerals and to cluster situations, impacting bajri mining across Rajasthan.
  - iv. **Forest (Conservation) Act, 1980**: prior approval is mandatory for non-forest use on forest land, including mining.
  - v. **Air (1981) and Water (1974) Acts**: consent to establish/operate from Pollution Control Boards.
- Wildlife (Protection) Act, 1972**: additional restrictions near sanctuaries and national parks.
- Mines Act, 1952 and DGMS regulations**: worker safety and health standards.

### 3.2 State framework (Rajasthan)

- i. **Rajasthan Minor Mineral Concession Rules, 2017 (as amended)**: govern grant, auction, transfer, and operations for minor minerals (including sand, bajri, masonry stone, etc.). They prescribe production limits, plans, and conditions whose breach may trigger cancellation or penalties.
- ii. **Rajasthan Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules** (issued under MMDR s.23C; read “as amended from time to time”):
  - a. Provide powers to authorized officers to inspect, seize minerals, tools, vehicles, and to verify transit passes/e-challans.
  - b. Require stockist licenses for storage beyond specified quantities.
  - c. Enable compounding of certain offences and lay down penalty schedules.
  - d. Establish check-posts, weighbridges, and documentation norms to track movement.
- iii. **Revenue, police, forest, and transport laws** intersect with mining enforcement—for example, trespass on government land, illegal use of forest land, over-loaded vehicles, and evasion of royalty.

In practice, a single illegal extraction episode may violate several of these laws at once, which is why joint task forces and multi-department drives are common.

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#### 4. Role of the Judiciary

Indian Courts have shaped mining governance through three kinds of interventions: requiring prior clearances, enforcing the public-trust doctrine and sustainable development, and mandating restitution for illegal extraction.

- **Deepak Kumar v State of Haryana (2012, SC):** The Supreme Court held that environmental clearance is necessary for mining minor minerals, including sand, even below traditional size thresholds, and emphasized **cluster-based** appraisal to avoid piecemeal clearance. This decision reset the compliance baseline for bajri mining across Rajasthan.
- **Common Cause v Union of India (2017, SC):** The Court treated extraction without a valid EC or in excess of approved limits as illegal, directing recovery up to **100% of the value** of the illegally mined minerals, over and above royalty and penalties. This made over-extraction economically unattractive and is frequently invoked by state authorities while raising demands.
- **Samaj Parivartana Samudaya v State of Karnataka (2013–2014, SC) and Goa Foundation (2014, SC):** Though centered on other states, these cases entrenched doctrines of **inter-generational equity, sustainable development, and auction-based allocation**, which Rajasthan follows for transparency and prevention of capture.
- **Himmat Singh Shekhawat v State of Rajasthan (2015, Rajasthan HC):** The High Court scrutinized river-sand (bajri) mining in the state, stressing scientific replenishment studies, compliance with EC conditions, and robust monitoring. The proceedings and later orders led to periodic restrictions and the requirement of comprehensive replenishment reports before riverbed mining could resume at scale. For Rajasthan’s enforcement practice, this case is pivotal.
- **M.C. Mehta (Aravalli) line of cases:** Although focused on Haryana and Delhi NCR, the Supreme Court’s insistence on protecting fragile hill systems and checking mining in ecologically sensitive zones guides Rajasthan authorities when applying the precautionary principle to Aravalli-adjacent tracts in Alwar and surrounding districts.
- **Ambica Quarry Works v State of Gujarat (1987, SC)** and the **T.N. Godavarman** forest matters underscore that no mining can proceed on forest land without central approval under the Forest (Conservation) Act, a rule Rajasthan must apply strictly.

Collectively, these rulings ensure that “no clearance, no mining” is not a slogan but a legally enforceable standard, and that illegal extraction invites restitution on a strict-liability footing.

#### 5. Challenges

Despite a solid legal framework, enforcement on the ground is complex:

1. **High demand and price arbitrage:** Rapid construction keeps demand for sand and stone high. Seasonal bans (e.g., monsoon) and clearance bottlenecks create shortages, incentivizing black-market extraction and night-time operations.

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2. **Terrain and dispersion:** Rajasthan's mineralized tracts are vast, often remote, and dotted with thousands of small workings. Monitoring every river stretch, hillock, and haul road in real time is resource-intensive.
3. **Capacity constraints:** District mining offices are lean. They must handle grant, monitoring, inspections, adjudication, auctions, and litigation simultaneously. Technical tools exist but are unevenly deployed or staffed.
4. **Fragmented authority:** Mining, police, transport, forest, pollution control, and revenue departments have overlapping roles. Coordination failures lead to delayed seizures, weak cases, or duplication.
5. **Evasion tactics:** Operators forge or re-use transit permits, tamper with vehicle number plates, carry mixed loads, or off-load before check-posts. Some run fleets with spotters and escorts to avoid raids.
6. **Evidence and prosecution hurdles:**
  - i. Section 22 MMDR requires a complaint by an authorized officer for cognizance, which means FIRs by police alone can falter unless promptly backed by the mining department.
  - ii. Establishing origin and quantity demands reliable sampling, weighment, and documentation.
  - iii. Prosecutions may be compounded or delayed, reducing deterrence.
7. **Environmental externalities:** Riverbed mining without replenishment studies lowers water tables, destabilizes banks and bridges, and fuels conflicts with farmers and fisherfolk. Remediation costs are rarely recovered fully.
8. **Socio-economic dependence:** Many households depend on small-scale quarrying and transport. A purely punitive approach, if not paired with formalization pathways, can push livelihoods underground.
9. **Corruption and local capture:** Rent-seeking at multiple nodes—lease processing, weighments, compounding, undermines honest operators and public trust.
10. **Data gaps:** Real-time reconciliation between production (as per approved mining plans), royalty assessment, e-transit passes, weighbridge logs, and end-user consumption is still not seamless, creating blind spots.

## 6. Conclusion

Illegal mining in Rajasthan is not only a law-and-order problem; it is a governance and sustainability challenge. The Constitution's trust doctrine, the MMDR regime, and environmental statutes create a strong compliance spine, and the judiciary has clearly signaled zero tolerance for extraction without lawful authority. Yet practical constraints—capacity, coordination, technology adoption, and socio-economic pressures—permit a persistent grey economy.

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A balanced strategy is needed: transparent allocation; quick, science-based clearances; strict, technology-enabled monitoring; and credible, swift penalties for violations. At the same time, formalization avenues for micro-operators and reliable supply of compliant materials can deflate the black market. If Rajasthan aligns these levers, it can protect rivers and landscapes, secure public revenues, and provide stable inputs for industry—proving that mineral-rich states can be both growth-oriented and law-abiding.

## 7. Suggestions

The following measures are targeted, actionable, and tailored to Rajasthan's context:

### 1. Tighten the chain of custody

- Mandate end-to-end digital tracking from pit to buyer: integrate lease-wise production limits, e-royalty payments, QR-coded e-transit passes, weighbridge data, and invoices on a single state platform.
- Require GPS tagging of all carrier vehicles and geo-fenced routes, with automatic alerts for route deviations or night-time movement in flagged corridors.

### 2. Use remote sensing at scale

- Deploy satellite change-detection and drones for periodic mapping of riverbeds and quarry faces. Auto-flag volumetric changes that exceed approved mine plans or occur outside lease polygons, and trigger targeted inspections.
- Publish non-sensitive layers on a public dashboard to crowd-validate anomalies.

### 3. Strengthen river-sand governance

- Approve bajri extraction only after reach-wise replenishment studies and annual adaptive caps.
- Prefer raised-bed or in-situ manufactured sand (M-sand) near consumption clusters; incentivize crushers and grading plants to reduce pressure on rivers.
- Enforce seasonal closures backed by alternative supply plans to prevent black-market spikes.

### 4. Make penalties credible

- Apply **100% value recovery** under Section 21(5) of the MMDR Act where extraction occurs without lawful authority, in addition to royalty and compounding fees.
- Create **fast-track special courts** or designate magistrates for mining cases to cut disposal time.
- Blacklist habitual offenders from future auctions and government contracts.

### 5. Clarify police–mining department workflow

- Issue standing orders to ensure that whenever police intercept illegal loads, the authorized mining officer files the requisite complaint promptly to satisfy Section 22.

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- Conduct joint trainings so seizure memos capture quantity, grade, GPS location, photographs, and weighbridge slips to make cases trial-ready.
- 6. Empower districts and Gram Sabhas**
- Constitute District Mining Enforcement Cells led by the Collector/SP with fixed monthly targets, GIS analysts, and legal support.
  - In Scheduled Areas, institutionalize Gram Sabha monitoring committees with a share of penalties credited to local development funds, aligning incentives.
- 7. Improve transparency in allocation and operations**
- Continue e-auctions with pre-declared geological data, model lease terms, and mine-closure obligations.
  - Publish lease-wise production and dispatch data (with reasonable commercial safeguards) to build public oversight and reduce rumors.
- 8. Worker safety and compliance culture**
- Make DGMS safety certification and periodic audits non-negotiable, even for small quarries; link e-pass issuance to valid safety and insurance documents.
  - Encourage industry associations to adopt collective compliance compacts—peer monitoring, shared weighbridges, and ethics codes.
- 9. Data reconciliation and analytics**
- Reconcile cement/stone consumption data with dispatch records to detect demand-supply mismatches that often signal illegal inflows.
  - Use anomaly detection (e.g., identical e-pass numbers, improbable turn-around times, repeated night dispatches) to schedule surprise checks.
- 10. Community reporting and protection**
- Launch a whistle-blower channel with anonymous reporting, incident geotagging, and reward mechanisms. Provide protection to officials and citizens who assist enforcement.
- 11. Capacity building and resources**
- Fill sanctioned posts in mining and geology departments. Equip field teams with rugged tablets, laser rangefinders, portable weigh scales, and body-cams.
  - Create a small litigation cell to defend penalty orders, reducing revenue leakages from technical reversals.
- 12. Cumulative impact management**
- Move beyond lease-by-lease appraisal. Adopt cumulative impact assessments at the river-basin and district levels, with extraction caps and no-go zones based on hydrology, biodiversity, and community use.

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### 13. Social compact for transition

- Where informal quarrying provides subsistence, design transition plans: cluster-based formalization, micro-leases with strict caps, skill upgradation, and access to low-interest finance for compliance equipment.

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