

Kerala Minor Minerals Concession Rules, 1967

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In exercise of the powers conferred by subsection (i) of section 15 of the Mines and Minerals (Development and Regulation) Act, 1957, Central (Act 67 of 1957) and all other powers enabling it in this behalf the Government of Kerala hereby make the following rules for regulating the extraction of minor minerals in the State of Kerala namely:

CHAPTER 1 PRELIMINARY

1. Short title :-

These rules may be called the Kerala Minor Mineral Concession Rules, 1967.

2. Commencement and extent :-

These rules shall come into force with effect from the date of their publication in the official 2Gazette and shall apply to all lands in the State of Kerala.

3. Definitions :-

In these rules, unless the context otherwise requires:-

- (i) "Act" means the Mines and Minerals (Development and Regulation) Act, 1957 (Act 67 of 1957)
- (ii) "Section" means a section of the Act.
- (iii) "Government" or "State Government" means the Government of Kerala;
- (iv) "Competent authority" means the authority or officer appointed by the State, Government by notification in the Gazette to exercise the powers and perform the functions of the competent authority under these rules;
- ²[(ivA) Consolidated Royalty payment system (CRP system) means quarries of Granite/Laterite building stone opted for payment of consolidated royalty per annum @ specified in schedule V]
- (v) "Quarrying permit" means a permit granted under Chapter II of these rules to extract and remove any minor mineral in specified quantities and within a specified time;
- (vi) "Quarrying lease" means a mining lease" for minor minerals;
- (vii) "Form" means a form appended to these rules;
- (viii) "Schedule" means a schedule appended to these rules;
- (ix) "Registered holder" means a person in whose name the land has been registered;

³[ixA "registered metal crusher unit" means a unit engaged in the business of crushing granite stones into aggregates by means of mechanical devices that conform to specific jaw sizes and dimensions, which has been duly registered with the Department of Mining and Geology and possessing valid quarrying lease or permit, as the case may be, on payment of Consolidated Royalty at the rates specified in Schedule IV.]

(x) "public works" means roads, public buildings, reservoirs irrigation canals, village paths and tanks;

(xi) "railway" and "railway administration" shall have the meanings respectively assigned to them in the Indian Railways Act, 1890 (9 of 1890)

(xii) "producer" means a person carrying on the business of extracting/collecting minor minerals in accordance with the provisions of these rules;

(xiii) "dealer" means a person carrying on the business of selling minor minerals mentioned in schedule 1 of these rules, whether wholesale or retail;

(xiv) words and expressions used but not defined in these rules shall have the meanings respectively assigned to them in the Act and the rules made there under.

2 Inserted by SRO 27012008 pub. in K.G.Ex.No 509 dt 12.3.2008 (GO (P) No.2/2008)

3 Inserted by SRO 152/2008 pub. in K.G.Ex.No 509 dt 19-3-2002 with immediate effect

CHAPTER 2 GRANT OF QUARRYING PERMITS IN RESPECT OF LANDS IN WHICH MINERALS BELONG TO GOVERNMENT

4. Grant of quarrying permit :-

⁴ [4. Grant of quarrying permit :-

(1) On application made to it the competent authority or an officer authorised by it in this regard may grant a quarrying permit to any Indian National to extract and remove from any specified land within the limits of its jurisdiction any minor mineral ⁵[except for dimension stones as specified in Rule 8A] not exceeding 10,000 tones in quantity under one permit, on payment of such royalties in advance as the competent authority or the officer concerned may fix on the basis of the rates specified in schedule I and also on payment in advance of such surface rent and cesses as may be assessable on the lands:

Provided that the competent authority or the officer authorised by it in this regard may reduce the quantity applied for or refuse to grant such permit for reasons to be recorded in writing.

Provided further that in the case of quarrying of ordinary clay for the manufacture of tiles, bricks earthen ware and potteries the royalty on the mineral will be payable by the manufacturing Industry on the basis of actual consumption of the mineral during the calendar year.

⁶ [(1A) In respect of application of person opted under consolidated royalty payment system, the permit shall be valid for one year from the date of issue within the respective area granted under the above system. The senior geologist/Geologist of the District office of the department Mining and Geology in their respective area are duly authorised to grant / renew the quarrying permit under consolidated royalty Payment system as per Schedule V. On expiry of Form P granted for a stipulated period, if the Consolidated Royalty Payment system holder requires additional Form P, it shall be issued on payment of Rs.5,000 (five thousand only) per 100 P Forms or multiples of the said amount subject to a maximum of 1000 P Forms].

(2) In respect of dimension stones as specified in rule 8A, the quantity under one permit shall be limited to 500 cubic metre.

4 Renumbered by SRO 685/92

5 Inserted by G.O.(Ms) 83 192IIDdt.3-6-1992 pub. in.K. G. Ex. No. 667 dt.3-6-1992 as SRO 685/92.

6 Inserted by SRO 270/2008 dt 2-1-2008.

5. Application for quarrying permit :-

(I) An application for a quarrying permit shall be made in form A and shall contain the following particulars, namely:

- (a) name, address, profession and nationality of the applicant;
- (b) name and quantity of the minor mineral for which the permit is required;
- (c) description such as, location, survey number etc. of the lands from which the minor mineral is to be extracted and removed;
- (d) Purpose for which the minor mineral is to be used.

(2) Every application for a quarrying permit shall be accompanied by an attested copy of the survey map of the area attested by an officer not below the rank of a ⁷[Tahsildar or Deputy Tahsildar

(Headquarters).] The area shall be coloured red in the map.

(3) Every application for a quarrying permit shall if the lands from which the minor mineral is to be extracted are occupied lands, be accompanied by a letter from the occupant of such lands to the effect that he has no objection to the extraction of the minor mineral by the applicant: Provided that in the case of an application for brick earth, ordinary clay for the manufacture of tiles, bricks etc, the quarrying permit will be granted without such letter if the applicants undertake/s that it shall be produced before the competent authority or an officer authorised by it in this regard before conducting actual quarrying or collection of minor minerals from the lands.

(4) Every application shall be accompanied by a certified copy, certified by an officer not below the rank of a ⁸(Tahsildar or Deputy Tahsildar (Headquarters)] of the relevant extracts from the record of rights in respect of the lands from which the minor mineral is proposed to be extracted and removed.

⁹[(5) Every application for grant of quarrying permit in respect of minor minerals mentioned in item 2 of schedule I appended to these rules should be accompanied by a No Objection Certificate from the District Collector concerned:

Provided that an application for obtaining permission for digging up of or renovation of ponds or wells or tanks and for stagnant water bodies in patta lands in order to store water for irrigation, agriculture, pisciculture (aquaculture) or for such other purpose where extraction of ordinary clay and/or sand is necessary the No Objection Certificate Stipulated in this rule is not mandatory but shall be accompanied by a certificate from the Agricultural Officer or Officer in charge of Marine Products Export Development Agency or Department of Fisheries or Village Officer or local authority concerned to the effect that the applicant is in need of digging up of or renovation of ponds or wells or tanks or in need of renovation of stagnant water bodies in patta land in order to store water for irrigation or agriculture or pisciculture (aquaculture purposes) as the case may be:

Provided further that in case of application for extraction of ordinary clay from the lands specified in Government Orders issued from time to time in this regard, production of No Objection Certificate from the District Collector is not mandatory.

¹⁰[5(a) In the case of application for quarrying permit under Consolidated Royalty Payment System, the application shall be made in Form -T in duplicate along with possession and Enjoyment

certificate and survey map of the area duly attested by an officer not below the rank of a Village Office.

Provided as (a), (b), (c) and (d), the applicant is not the land owner, consent letter shall be submitted in stamp paper worth Rs. 50 from the land owner].

11[(6) Every application for grant of quarrying permit in respect of minor miners mentioned in item 2 of Schedule I appended to these rules shall be accompanied by a financial security in the form of bank guarantee from any Nationalized / Scheduled bank at the rates fixed by Public Works Department for the purpose of reclamation of pits to be formed in the applied area after quarrying:

Provided further that in the case of application for obtaining permission for digging up of or renovation of ponds or wells or tanks or for renovation of stagnant water bodies in order to store water for irrigation or agriculture or pisciculture (aquaculture) purposes or for such other purposes where extraction of ordinary clay and /or sand is necessary, conditions stipulated in this rule shall not apply.]

7 Substituted by Noti No 8062/G3/74/1D. dt 29-3-1974.

8 Substituted by Noti No 8062/G3/74/1D. dt 29-3-1974.

9 Inserted by SRO No. 256/2009 and later substituted by SRO No.255/2010

10 Inserted by SRO 270/2008.

11 Inserted by SRO No. 256/2009 and later substituted by SRO No.255/2010

6. Application fee :-

(1) The application shall be accompanied by a fee of 6[Rs. 200 (Rupees to hundred only) for all minor minerals except for the dimension stones as stated in Sub-rule (IA) below]

12[(IA) Every application for quarrying permit in respect of dimension stones as specified in rule 8 A shall be accompanied by a fee of Rs. 5000 (Rupees Five thousand only)]

(2) The amount of fee shall be remitted in any of the State Government treasuries to the credit of the **13**[Department of Mining and Geology under relevant receipt head of account of the Department] and the treasury receipted chalan shall be attached to the application.

12 Added by ibid and substituted by G.O (Ms) 121/93/ID dt. 27-9-93 pub. in K.G.. Ex. No: 1037 dt.1-1-93.

13 Substituted by Noti .No. 33191/K2/841/D dt. 1-2-1985 pub.in.K.G . No.i2 dt.19-3-85 as SRO 371/85

7. Acknowledgement of application :-

(1) The receipt of an application for, quarrying permit shall be acknowledged in form D within three days of the receipt of t the application;

(2) The officer receiving such application shall enter on it the date on which and the hour at which the application has been received by him.

8. Conditions on which quarrying permit shall be granted :-

(1) Every quarrying permit granted under rule 4 shall be subject to the following conditions, namely:-

14 [XXX] **15**[(a) that the depth of the pit below surface shall not exceed 20 ft.]

16 [(a) that the permit shall be valid only for a maximum period of one year by which time the specified quantity of the mineral shall be quarried and removed;

(b) that the permit holder shall not be eligible for refund of any of the amount paid by way of royalty rents, etc;

(c) that the permit holder shall furnish to the competent authority or the officer authorised by him in this regard a monthly return in form F regarding the mineral quarried and removed from the area. He shall also permit inspection of the area by the officers concerned at any time and shall give satisfactory proof as to the quantity of mineral quarried and removed.

(d) that the quarrying permit holder shall apply for a quarrying lease in case he desires to continue quarrying from the area for a period of more than one year, provided he is able to satisfy all the necessary conditions laid down in the chapter dealing with quarrying leases:

17[Provided further that if the competent authority is satisfied that the renewal of a quarrying permit already granted lapsed is absolutely necessary and inevitable he may renew the same for a further period of one year at a time, subject to the conditions and rules applicable to grant of quarrying permits and in that case the fees for the renewal of the quarrying permit shall be the same as

8A. Classification of granite and other crystalline rocks :-

19[8A Classification of granite and other crystalline rocks

The different varieties of granite and other crystalline rocks are classified as (i) Dimension stones which included all types of granites, dolerite, charnockite, leptynite and other crystalline rocks of Acid, Intermediate, basic and ultra basic groups of igneous and metamorphic origin which are suitable for cutting to pre-determined sizes, polishing, carving and amenable for making value-added products in decorative monumental and ornamental fields of industry as a high-value item and (ii) all those group of rocks specified above in sub -item (1) which are not suitable for using as dimension stones as specified therein, but can be used as ordinary building stones, road metal, rubble and ballasts after breaking into irregular pieces by blasting or otherwise as low value item with different rates of royalty, dead rent.

Note:-Indulgence of quarrying or raising a high value item of dimension stone with the permit/ lease taken for ordinary low value items of granite and other crystalline rocks attract provisions of Rule 58, besides the permit/lease is liable for cancellation without any notice.]

19 Added by SRO 685/92

9. Restrictions relating to grant of quarrying permits :-

20[XXX]

21(1) Where two or more persons have applied for a quarrying permit in respect of the same land, the applicant whose application was received earlier shall have a preferential right for the grant of the permit over the applicant whose application was received later provided the earlier application satisfies all the conditions laid down in these rules.

[(2) The area granted under a quarrying permit shall be a contiguous unit.]

20 Deleted By SRO 270/2008

21 Renumbered by ibid

CHAPTER3 GRANT OF QUARRYING PERMIT IN RESPECT OF LANDS IN WHICH A MINERALS BELONG TO A PRIVATE PERSON

10. Grant of quarrying permit :-

On application made to him in form A, a private person in whom is vested the minerals rights in the lands owned by him may grant a quarrying permit to any Indian National to extract and remove from a specified land any minor mineral not exceeding 10,000 tonnes in quantity under one permit under the same conditions as specified in Chapter II under which the competent authority or the officer authorised by him in that regard may grant a quarrying permit in respect of lands in which the minerals vest in Government.

11. Duties of the grantor :-

The private person who may grant a quarrying permit under rule 10 shall submit to the competent authority or any officer empowered by him in this regard an attested true copy of the permit issued by him to any person, within 30 days of its grant.

12. Prohibition of working of quarries :-

If the state Government or competent authority has reason to believe that the grant of a quarrying permit is in contravention of any of the provisions of this Chapter, the State Government or the competent authority may, after giving the parties an opportunity of being heard, direct the parties concerned not to undertake any quarrying operations in the area to which the permit relates.

CHAPTER 4 GRANT OF QUARRYING PERMIT IN RESPECT OF LANDS IN WHICH THE MINERALS VEST PARTLY IN GOVERNMENT AND PARTLY IN PRIVATE PERSONS

13. Chapter II to apply to quarrying leases in respect of lands in which minerals vest partly in Government and partly in a private person :-

The provisions in Chapter II shall apply in relation to grant of quarrying permit in respect of lands in which minerals vest partly in Government and partly in a private person. Provided that the royalty, surface rent and cesses, if any, payable shall be shared by the Government and by the private person in proportion to the shares they have in the minerals.

14. Duty of landholder to prove his share in mineral rights :-

In granting the quarrying permit the competent authority shall

treat the land as land in which the mineral vest in Government and issue permit to extract the specified quantity of the mineral. Provided that if the private person is able to produce valid documentary proof to show his share in the royalty, surface rent, and cesses, if any, during the currency of the permit, the competent authority shall after getting a clearance certificate from the concerned Revenue Authorities make arrangements to pay him his share from the collection already made from the quarrying permit holder:

Provided further that where the applicant for the quarrying permit is the private person and where he produces along with the application valid documentary proof in regard to his share in the mineral rights, the competent authority shall, after getting clearance certificate from the concerned Revenue authorities, and after collecting the Governments share in the royalty, surface rent, and cesses, if any, issue the permit.

CHAPTER 5 GRANT OF QUARRYING LEASE IN RESPECT OF LANDS IN WHICH THE MINERALS VEST IN THE GOVERNMENT

15. Applicability of the chapter :-

The provisions of this chapter shall apply only to the grant of quarrying leases in respect of lands in which the minor minerals vest exclusively in the State Government.

16. Restrictions on the grant of quarrying leases :-

Quarrying leases under this chapter shall be granted only to the Indian Nationals:

Provided that a quarrying lease may be granted by the state Government to a person who is not an Indian National with the previous approval of the Central Government.

17. Payment and rate of royalty :-

(I) The holder of a mining lease granted on or after the commencement of these rules shall pay royalty in respect of any mineral removed by him from the land in respect of which the lease has been granted at the rates specified in schedule 1 in respect of the mineral.

22[(I A) The holder of quarrying lease for Granite Building Stone may opt for the Consolidated Royalty Payment System as per schedule V provided the leaseholder is not having metal crusher

unit].

[2] The State Government, by notification in the Official Gazette, amend the schedule 1, so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral with effect from such date as may be specified in the notification.

22 Inserted by SRO 270/2008

18. Application for grant of quarrying lease and its renewal
:-

[1] The application for the grant of 23[quarrying lease or] renewal of a quarrying lease shall be made to the competent authority in form B

24[(1A)] Every application for grant of quarrying lease or renewal of quarrying lease in respect of dimension stones as specified in the classification in rule 8A shall be accompanied by a fee of Rs. 10,000 (Rupees Ten Thousand only)].

(2) Every such application shall be accompanied by.

[a] a fee of ²⁵[Rupees One Thousand for all minor minerals, except dimension stones] and

[b] an income-tax clearance certificate in form C from the income-tax officer concerned.

²⁶[(c)] The applicant should indicate in their application their plan for waste disposal and the area provided for the same.]

²⁷[(d)] The applicants also should indicate their plan of reclamation, and plans for minimizing the adverse environmental and ecological impacts due to degradation of land and destruction of scenic beauty.]

²⁸[Note: . Non compliance of any of the conditions stipulated above is liable for rejection of the application without any refund of application fee.]

(3) The amount of the fee shall be deposited in such state government treasury to the credit of the particular department, as government may by special order specify in this behalf, and the treasury receipted chalan shall be attached to the application.

[4] Every application for the renewal of a quarrying lease shall be made at least three months before the date on which the lease is due to expire.

23 Inserted by SRO 685/92

24 Added by SRO 685/92. Substituted by GO(Ms)165/94/ID dt. 1.8.94 and substituted by SRO 264/97 wef 1.4.1997

25 Substituted by SROs 371/85, 179/89, 685/92 and 264/97 wef 1.4.95

26 Added by SRO 685/92

27 Added by SRO 685/92

28 Added by SRO 685/92

19. Acknowledgement of application :-

[1] Where an application for the grant or renewal of quarrying lease is delivered personally, its receipts shall be acknowledged forthwith.

[2] In all other cases, the receipt of such application shall be acknowledged in form "D" within three days of the receipt,

[3] The Officer receiving such application shall enter on it the date on which and the hour at which the application has been received by him.

20. Preferential right of certain persons :-

[1] Where two or more persons have applied for quarrying lease in respect of the same land. the applicant whose application was received earlier shall have preferential right for the grant of the lease over an applicant whose application was received later.

[2] The state government or the competent authority may, for special reasons to be recorded. grant a quarrying lease to an applicant whose application was received later in preference to an applicant whose application was received earlier.

[3] Where the area is large enough, the State Government or the competent authority may divide the area into blocks keeping in view of the size and shape conducive to economic mining and give the applicant whose application was received earlier such of the blocks as he may select.

21. Disposal of application for the grant and renewal of quarrying lease :-

[1] On receipt of an application for the grant or renewal of a quarrying lease the competent authority, on making such enquiries as is found necessary, may sanction the grant or renewal of quarrying lease to the applicant or refuse to sanction it.

[2] An application for the grant of a quarrying lease shall be disposed of within six months from the date of its receipt.

[3] An application for the renewal of a quarrying lease shall be disposed of within three months from the date of its receipt.

[4] If any application is not disposed of within the period specified in sub-rule (2) or sub-rule (3), it shall be deemed to have been refused.

Reason for refusal to be recorded:-Where the competent authority passes any order refusing to grant or renew a quarrying lease, the reason thereof shall be communicated in writing to the person against to whom such order is passed, within 30 days of the date of the order.

22. XXX XXX XXX :-

23. Refund and forfeiture etc :-

Where an application for the grant or renewal of a quarrying lease is refused or deemed to have been refused under rule 21 or the applicant refuses to accept the lease on account of any conditions imposed under rule 29, the fee paid by the applicant under clause (a) of sub-rule [2] of rule 18 shall be refunded to him.

24. Length and breadth of area leased :-

Except in case of a quarrying lease for sand or Kankar, the length of an area held under a quarrying lease shall not exceed four times its breadth: Provided that in case of bedded deposits, the length shall not be more than twice the breadth measured along the dip.

25. Boundaries below the surface :-

The boundaries of the area covered by a quarrying lease shall run vertically downwards below the surface towards the centre of the earth.

26. Restriction on the area of quarrying lease :-

[1] The area granted under the quarrying lease shall be a contiguous unit.

[2] No lessee shall ordinarily hold in the aggregate more than 2 square kilometers of area under lease in respect of one minor mineral within the state of Kerala.

27. Survey of the area leased :-

In the case of un-surveyed lands and in cases where, the area is

not bounded by the boundary or boundaries of existing survey numbers, arrangements shall be made at the expense of the lessee for the survey and demarcation of the area granted under the lease. In all other cases, copy of the survey map of the area attested by the local Revenue authority not below the rank of a Tahsildar or Assistant Director of the Department of Survey and land Records shall be accepted as sufficient document to specify the area.

28. Period of quarrying lease :-

[1] The period for which a quarrying lease may be granted²⁹ [for all minor minerals except for dimension stones] shall not exceed ³⁰[12 years] except in the case of ³¹[a quarrying lease for ordinary clay granted to the] cement manufactures in which case the maximum period shall be 20 years. The quarrying lease may be renewed for one or two periods not exceeding the period for which the quarrying lease was originally granted.

³²[(1A) In respect of dimension stones as specified in classification under sub-item (I) in Rules 8A the lease period shall not exceed 10 years for those who establish cutting and polishing units within the State involving investment not less than a crore of rupees. In other cases, the lease period shall not exceed 3 years or for a quantity of 2000 cubic metres whichever event comes earlier, with provisions to renew the lease in deserving cases]

(2) When renewal is granted, dead rent, royalty and surface rent shall be charged at the rates in force at the time of renewal.

29 Added by SRO 685/92

30 Substituted by Notification No. 8062/G3/74/ID dt. 29.3.1974

31 Substituted by GO (Ms) 102/68 dt.11.3.1968

32 Added by SRO 685/92

29. Conditions of quarrying lease :-

[1] Every quarrying lease shall be subject to the following conditions, and such conditions shall be incorporated in every quarrying lease deed

(a) The lessee shall report to the authority who has sanctioned the lease, the discovery in the leased area of any mineral not specified in the lease within 15 days of such discovery;

(b) If any mineral not specified in the lease is discovered in the leased area, the lessee shall not win or dispose of such mineral unless a separate lease is obtained therefore under the relevant rules and if he fails to apply for such a lease within six months from the discovery of the mineral the State Government may grant a lease in respect of such minerals to any other person;

(c) The lessee shall pay to the State Government royalty on any mineral moved out of the quarry hold at the rates specified in schedule I as may be fixed by the State Government from time to time.

33[provided that in the case of quarrying leaseholder, those who opt for consolidated royalty payment system, need to rent the amount prescribed in the higher slab of the schedule V. i.e., Rs. 1,00,000 per annum]

(d) The lessee shall pay the State Government for every year, except the first year of lease such yearly dead rent within the limits specified in schedule II. as may be fixed from time to time by the State Government. Where the lease permits the working of any mineral, the lessee shall be liable to pay dead rent or royalty in respect of that mineral whichever be higher in amount but not both:

Provided that where the lease permits the working of more than one mineral in the same area, the lessee shall be liable to pay dead rent or royalty in respect of each mineral subject to the restriction mentioned above in respect of any mineral:

Provided further that where the quarrying of one mineral involves the quarrying of any other mineral or minerals and lease permits the working of such other mineral or minerals also the lessee shall be liable to pay dead rent for only one mineral the highest dead rent being payable for this purpose in lieu of the combined royalty, if the latter is less than the former.

(e) The lessee shall also pay to the State Government for the surface area used by him for the purpose of mining operations surface rent at such rate as may be specified in the lease, but not exceeding the land revenue and cesses assessable on the land from time to time;

(f) The lessee shall not employ in connection with the mining operations any persons who are not an Indian National except with the previous approval of the State Government or the competent authority;

(g) Unless the State Government or the competent authority for sufficient cause permit or permits otherwise the lessee shall

commence mining operations within three months from the date of execution of the lease and shall thereafter conduct such operations in a proper, skillful and workman like manner.

Explanation:- For the purpose of this clause mining operations shall include the erection of machinery, laying of a tramway or construction of a road in connection with the working of the mine:

(h) The lessee shall at his own expense erect and at all times maintain and keep in good repair boundary marks and pillars necessary to indicate the demarcation shown in the plan annexed to the lease.

(i) The lessee shall not carry on, or allow to be carried on any mining operations at any point within a distance of 75 metres from any railway line, except under and in accordance with written permission of the railway administration or from any bridge on National Highway or 50 metres from any reservoir, tanks, canals, roads, bridges, other public works, residential buildings, the boundary walls of places of worship, burial grounds or burning ghats, except under and in accordance with the previous permission of the State Government or the competent authority. The railway administration or the State Government or the competent authority may in granting such permission impose such conditions as may be found necessary. Provided that except in cases of sand no mining operations shall be carried on within 50 metres of any river bank.

(j) The lessee shall keep correct accounts showing the quantity and other particulars of all minor minerals obtained from the mine, date wise, quantities of despatches from the lease hold, the price obtained for such minerals, the name of the purchasers, the receipts for money received, the number of persons employed therein, and shall allow any officer authorised by the State Government or the competent authority in this behalf to examine at any time any accounts and records maintained by him and shall furnish the State Government or the competent authority with such information and returns as may be required.

(k) The lessee shall keep accurate records of all trenches and pits made by him in the course of quarrying operations carried on by him under the lease, and shall allow any officer authorised by the State Government or the competent authority to inspect the same. Such records shall contain the following particulars namely:-

(i) The sub-soil and strata through which such trenches or pits or drillings pass;

(ii) any mineral encountered

(iii) Such other particulars as the State Government or the

competent authority may, from time to time, require

(I) The lessee shall support and strengthen, to the satisfaction of the railway administration concerned or the State Government or the competent authority, as the case may be, any part of the quarry which in its or their opinion requires such strengthening or support for the safety of any railway, reservoir, canal, road or any other public works or buildings;

(m) The lessee shall allow any officer authorized by the State Government or the competent authority and the Central Government to enter upon any building, excavation or land comprised in the lease for the purpose of inspecting the same;

(n) The lessee shall give to:

(i) The Chief Inspector of Mines, Government of India, Dhanabad;

(ii) The Director, Indian Bureau of Mines, Government of India, Nagpur;

(iii) The District Magistrate of the district in which the mine is situated; notice in writing in form E appended to these rules, as soon as:-

(a) the workings in the mine extent below superjacent ground; or

(b) the depth of any open cast excavation measured from its highest to the lowest point reaches 6 metres; or

(c) the number of persons employed on any day is more than 50; or

(d) any explosives are used;

(o) the State Government or the competent authority shall at all times have the right of preemption of the minor minerals won from the land in respect of which the lease has been granted;

Provided that the fair market price prevailing at the time of pre-emption shall be paid to the lessee for all such minor minerals;

(p) the lessee shall;

(i) Submit by the tenth day of every month, to the competent authority, a return in form F giving the total quantity of minor minerals raised in the preceding calendar month and its value;

(ii) furnish by the 15th April of every year to the competent authority, a statement in form G giving information regarding quantity and value of minor minerals obtained during the last financial year, average number of labourers employed (men and women separately), number of accidents, compensation paid and number of days worked separately;

34[(pp) The lessee shall be responsible for implementing the provisions of the various labour laws applicable, from time to time, to the quarry.

(ppp) the lessee shall not assign, sub-let or transfer his lease or any right, title or interest therein to any person without the previous sanction in writing of the State Government or competent authority as provided in rule 34.

(pppp) where any lease or any right, title or interest therein has been, assigned, sublet or transferred as provided in clause (ppp), then the person in whose favour such assignment, sublease or transfer has been made shall be responsible for implementing the provisions of the various labour laws applicable, from time to time, to the quarry]

(q) a quarrying lease may contain such other conditions as the State Government or the competent authority may deem necessary in regard to the following matter, namely:-

(i6) the time limit, mode and place of payment of rents and royalties for this purpose minerals shall be moved from the quarry hold only on permits issued by the competent authority on the basis of prepaid royalty;

(ii) the compensation for damage to the land covered by the lease;

(iii) the felling of trees;

(iv) the restrictions of surface operations in any area prohibited by any authority;

(v) the notice by lessee for surface occupation;

(vi) the facilities to be given by the lessee for working other minor minerals in the leased area or adjacent areas;

(vii) the entering and working in a reserved or protected forest;

(viii) the securing of pits and shafts;

(ix) the reporting of accidents;

(x) the indemnity to the State Government against claim of third parties;

(xi) the delivery of possession over lands and mines or the surrender, expiration or determination of the lease;

(xii) the forfeiture of property left after determination of lease;

(xiii) the power to take possession of plant, machinery, premises and mines in the event of war or emergency;

(xiv) the provision of proper weighing machines.

(1) (a) If the lessee does not allow entry or inspection under clause (i) or (j) or (I) of sub rule (i), the State Government or the competent authority shall give notice in writing to the lessee requiring him to show cause within 30 days why the lease should not be determined and his security deposit forfeited, and if the lessee fails to show cause within the aforesaid period to the satisfaction of the State Government or the competent authority

they or it may determine the lease and forfeit the whole or part of the security deposit.

(b) If the lessee makes any default in payment of dues to the State Government or commits breach of any of the conditions other than those referred to in clause (a) the State Government or the competent authority shall issue notice to the lessee requiring him to pay the dues or remedy the breach, within 30 days from the date of receipt of the notice and if the payment is not made or the breach is not remedied within such period, the State Government or the competent authority may without prejudice to any proceeding that may be taken against him, require the lessee to pay a penalty not exceeding an amount equivalent to five times the annual dead rent.

(c) A quarrying lease may contain any other special conditions as may be specified by the State Government.

33 Inserted by SRO 270/2008

34 Inserted by Noti. No. 1901/K2/82/ID dt.25-3-1983, pub. In K.G. No 23-6-1983 as SRO 7261/83

30. Rights of lessee :-

Subject to the conditions mentioned in rule 29 the lessee with respect to the land leased to him, shall have the right for the purpose of mining operations on that land.

- (a) to work the mines
- (b) to sink pits and shafts and construct building and roads;
- (c) to erect plant and machinery;
- (d) to quarry and obtain buildings and road materials and make bricks, but not for sale;
- (e) to use water and take timber;
- (f) to use land for stacking purposes;
- (g) to do any other thing specified in the lease

31. Security Deposit :-

[1] An applicant for quarrying lease shall before the deed referred to in rule 32 is executed, deposit as security a sum of ³⁵[one thousand rupees for all minor minerals except dimension stones] only for the due observance of the terms and conditions of the lease. .

[2] ³⁶[In the case of dimension stones in rule 8A the security deposit shall be Rs. 10,000 [Rupees Ten thousand only] per

hectare. The security amount shall be refundable on the expiry of period of lease after deducting penalties if any]

[3] The security deposit shall be remitted to the credit of the State Government to the remittance head of account as the Government may by special order specify in this regard.

35 Substituted by SRO 685/92

36 Added by SRO 685/92, pub. in KG Ex.No. 667 dt.3.6.1992

32. Lease to be executed within three months :-

[1] Where a quarrying lease is granted, a lease deed in form H shall be executed within three months of the order or within such further period as the State Government or the competent authority may allow in this behalf, and if no such lease deed is executed within the said period due to any default on the part of the applicant, the State Government or the competent authority may revoke the order granting the lease, and in that event the application fee shall be forfeited to the State Government.

[2] The date of commencement of the period for which a quarrying lease is granted shall be the date on which the deed is executed under sub-rule [1]

33. Registration of quarrying leases :-

All quarrying leases granted under this chapter shall be registered in accordance with the provisions of the Indian Registration Act, 1908 (Central Act 16 of 1908)

34. Transfer of quarrying lease :-

The lessee may with the previous sanction of the State Government or the competent authority assign, subject or transfer his lease or any right title or interest therein to any person on payment of a fee of one hundred rupees to the State Government provided he has paid all the outstanding dues to Government.

34A. Responsibility for implementing the labour laws :-

³⁷34A [Responsibility for implementing the labour laws

The lessee shall be responsible for implementing the provisions of the various labour laws applicable, from time to time. to the quarry; Provided that where the lease or any right, title or interest therein has been assigned, sublet or transferred as provided in rule

34, then the person in whose favour such assignment, sub-lease or transfer has been made shall be responsible for implementing the provisions of the various labour laws applicable, from time to time, to the quarry].

37 Inserted by SRO 726/83

35. Rights to determine the lease :-

The lessee may determine the lease at any time by giving not less than six months notice in writing to the State Government or the competent authority after paying all outstanding dues to the State Government.

36. Registers :-

[1] A Register of applications for quarrying leases shall be maintained by the competent authority in Form L

[2] A Register of quarrying lease shall be maintained by the competent authority in form J

37. Pending application for quarrying lease :-

Applications for the grant or renewal of the quarrying leases pending at the commencement of these rules shall be disposed of in accordance with the provisions of these rules.

CHAPTER 6 PROCEDURE FOR OBTAINING QUARRYING LEASE IN RESPECT OF LAND THE MINOR MINERALS IN WHICH VEST IN PERSON OTHER THAN STATE GOVERNMENT

38. Applicability of this chapter :-

The provisions of this chapter shall apply to the grant of quarrying leases in respect of lands, the minor minerals in which vest exclusively in a person other than the State Government.

39. Grant of quarrying permit and restrictions thereto :-

On an application made to him in form B, a private person in whom is vested the mineral right in the lands owned by him may grant a quarrying lease to any person subject to the restrictions specified below:

(i) No quarrying lease shall be granted to any person unless he produces along with his application in form B an income tax

clearance certificate in form C from the Income Tax Officer.

(ii) No quarrying lease shall be granted to any person who is not an Indian National. Provided that a quarrying lease may be granted to a person who is not an Indian National with the previous permission of the State Government. The State Government shall obtain the approval of the Central Government before granting and permission.

40. Conditions of quarrying lease :-

Every quarrying lease shall be subject to the following conditions, namely:

(i) the provisions of clauses (b) to (p) of rule 29 relating to conditions of quarrying lease shall apply to such leases with the modification that in clauses (c), (d) and (p) for the words "State Government", the word "lessor" shall be substituted and in clause (p) the words "competent authority" shall be omitted.

(ii) the provisions of rule 24 shall apply to such leases;

(iii) the lease may contain such other conditions not being inconsistent with the provisions of the Act and these rules, as may be agreed upon between the parties;

(iv) if the lessee makes any default in payment of royalty or commits a breach of any of the conditions of the lease, the lessor shall give notice to the lessee requiring him to pay the royalty on remedy the breach, as the case may be, within thirty days from the date of the receipt of the notice and if the royalty is not paid or the breach is not remedied within such period, the lessor without prejudice to any proceeding that may be taken against the lessee determine the lease;

(v) the lessee may determine the lease at any time by giving not less than three months notice in writing to the lessor;

41. Registration of quarrying lease :-

All quarrying leases granted under this chapter shall be registered in accordance with the provisions of the Indian Registration Act, 1908 (Central Act 16 of 1908).

42. Submission of copy of quarrying lease order by the lessor :-

Every lessor granting a quarrying lease shall, within one month of the grant of the lease, submit to the State Government or the

competent authority a copy of the lease order.

43. Submission of copy of the lease deed :-

The lessee obtaining a quarrying lease , shall, within one month of the date of registration of the lease deed, submit to the State Government or the competent authority a registered copy of the lease deed.

44. Transfer of assignment :-

No quarrying lease shall be transferred to a person unless he be an Indian National and holds an Income Tax clearance certificate in form "C" from the Income Tax officer concerned.

45. Communication of transfer of assignment :-

Every transferee or assignee of a quarrying lease shall within 30 days of such transfer on assignment inform the State Government or the competent authority of the transfer or assignment and submit to the State Government or the competent authority one registered copy of the agreement entered into in that regard.

46. Prohibition of working of quarries :-

If the State Government or the competent authority has reason to believe that the grant or transfer of quarrying lease is in contravention of any of the provisions contained in this chapter, the State Government or the competent authority may, after giving the parties an opportunity to represent their views within a specified period, direct the parties concerned not to undertake any quarrying operations in the area to which the lease relates.

47. Returns and statements :-

The -holder of a quarrying lease shall furnish to the State Government or the competent authority such information and statements within such period as may be required by them on it, as the case may be.

CHAPTER 7 GRANT OF QUARRYING LEASE IN RESPECT OF LAND IN WHICH THE MINERALS VEST PARTLY IN GOVERNMENT AND PARTLY IN PRIVATE PERSONS

48. Chapter V to apply to quarrying leases in respect of

minerals which vest partly in Government and partly in private persons :-

The provisions contained in Chapter V shall apply in relation to the grant of quarrying leases in respect of minor minerals which vest partly in the Government and partly in a private person, as they apply in relation to the grant quarrying lease in respect of minor minerals which vest exclusively in the Government:

Provided that the dead rent and royalty payable in respect of minor minerals which partly vest in the Government and partly in a private person shall be shared by the Government and by the private person in proportion to the shares they have in the minor minerals. If the applicant or the land owner is not able to produce valid documents to prove the land owners share in the mineral rights, the quarrying lease shall be granted treating the mineral as belonging exclusively to the Government.

Provided further that the land owner shall be given a registered notice to this effect and granted a period of three months or any extension of period as the State Government or the competent authority may grant, to produce such documents. In such an event, the State Government or the competent authority shall waive the condition in rule 32 and allow sufficient time for the execution of the lease deed.

CHAPTER 7A STOCKING AND SELLING OF MINOR MINERALS

48A. Licence for a dealer :-

No person, other than a quarrying permit or a quarrying lease holder, shall stock, sell or offer for sale any minor minerals mentioned in schedule 1 in any place in the state, except under a dealers licence issued under the seal and signature of the competent authority, if Government have issued no notification to that effect in the case of any minor mineral in the whole state or in any particular area.

48B. Form and manner of application for a licence and its renewal :-

(a) Every application for dealers licence shall be made to the competent authority in Form K

(b) Every such application shall be accompanied by:

³⁹[(i) a treasury receipted chalan for the amount of fee at the rates

shown in Schedule III of the rules; remitted under the relevant receipt head of the Department] ⁴⁰[***]

(ii) a location map showing the exact location of the sales Depot (Survey No and other details of the place on which such a Depot is situated).

⁴¹[(iii) a consent letter from the owner/person in possession of the property in which the sales depot is situated, in case the property is not possessed by the applicant himself].

(c) Every application for renewal of dealers licence shall be made, at least one month before the date on which the licence is due to expire, accompanied by a Treasury Chalan for the fee at the rate shown in schedule III, remitted in the Departmental Head of Account ⁴²[and a consent letter from the owner /person in possession of the property in which the sales depot is situated, in case the property not possessed by the applicant himself.]

39 Substituted by SRO 371/85 pub. in KG no. 12 dt. 19.3.85

40 Omitted by SRO 57/83

41 Inserted by Noti. No. 43112/K2/82/ID dt. 18.1.1983, pub. in K.G.Ex. No.64 dt.18.1.1983 as SRO 57/83

42 Added by SRO 57/83

48C. Form and particulars of licence :-

(1) On receipt of an application for the grant of a dealers licence or for its renewal the competent authority after making such enquiry as it thinks fit may grant or renew a licence in form L or refuse to grant a licence.

(2) Every licence issued under sub-rule (1) shall be subject to such conditions and restrictions as may be specified therein and to the provisions of the Act and Rules.

(3) Every licence issued under sub-rule (1) shall show therein the name of minor minerals and its varieties authorised to be sold or to be offered for sale by the dealer and the particulars of the premises where the minor minerals are stocked for sale.

48D. Licensing :-

Grant or refusing. -In granting or refusing a dealers licence under sub-rule (1) of rule 48-C the competent authority shall take into consideration the following matters, namely:

(i) The sales depot for any minor mineral owned by any co-

operative society in the locality;

(ii) The number of licenced dealers selling the minor mineral in the area.

(iii) The number of workers engaged in the work relating to the minor mineral burning in the locality and their requirements;

(iv) Availability of the minor mineral of the kind required for sale;

(v) General demand for the minor mineral and

(vi) Demand for agricultural purpose in the locality_

48E. Display of licence :-

Every dealer shall display the licence granted to him under sub-rule (1) of rule 48-C in a prominent place in a part of the premises open to the public

48F. Maintenance of Records and production of the same for inspection :-

A Dealer shall maintain in Form M a record of all purchases and sale effected by him of each minor minerals showing the particulars of the source and quantity of purchase and of the persons to whom sold and a stock register in Form N and such other records. If any, as the competent authority may specify and such records shall be open to inspection by the competent authority or of any other person authorised in this behalf by the competent authority.

48G. Furnishing of statement of accounts by a dealer :-

Every dealer shall within seven days of the close of each month submit to the competent authority a return in Form O of the total purchase and sale effected by him during the month. Separate statement of accounts shall be furnished for each minor mineral if the dealer is having licences for more than one minor mineral.

48H. H. Loss of Licence :-

A true copy of the dealers licence may be issued to the dealer on payment of ⁴³[one hundred rupees] if the competent authority is convinced that the original licence is damaged, defaced or lose.

43 Substituted by Noti. No.2571/K2/88/ID dt. 24.1.1989 pub in KG Ex. No. 95 dt. 28.1.1989 as SRO 147/89 and SRO 685/92

48I. Cancellation of a licence :-

If a dealer fails to comply with any of the conditions of the licence or any of the provisions of the Act, Rule or orders in this regard, the competent authority may by an order in writing rescind the licence issued under these Rules.

48J. Period of licence :-

The period of a dealers licence shall be for the financial year for which it is granted and the period shall expire on the 31st March every year unless it is rescinded by the competent authority earlier. Provided that a dealers licence granted in the last quarter of a financial year shall be valid until the 31st day of March of the year next following.

48K. Cash Memorandum :-

44[48K. Cash Memorandum

Every dealer or producer under these Rules, while selling minor minerals shall give to the purchaser a cash memorandum in Form-P prepared in duplicate duly with seal and signature of the competent authority or any other officer duly authorised in this behalf and every purchaser, owner, driver, and the person in charge of any vessel, vehicle, etc., it shall produce the Cash Memorandum at the time of inspection and verification as required by the competent authority or by any other person authorised by the competent authority or Government in this behalf. Any consignment of minor mineral without a valid cash memorandum shall be considered as illicit and the competent authority or such authorised person may recover the minor mineral from the person and also seize the receptacles in which the same is found and the carts, vehicles or other conveyances used in carrying the same. The date and time on each Form P issued shall be entered in words and figures by the dealer or producer at the time of despatch of the consignment.

Provided that the owner/driver and the person in charge of any "Vessel", vehicle shall cause it to stop and to remain stationary so long as it may do so by any officer of the department of Mining and Geology or Police or any other person duly authorized by the Government or the competent authority in that behalf for the purpose of making any recovery under this rule].

44 Substituted by SRO No. 270/2008

48L. Checking of unauthorized dealing in minor mineral :-

Any person who possesses any minor mineral for consumption or for sale or consumed or sold any minor mineral shall if so required produce sufficient proof to the competent authority or to any other person authorized in this behalf by the competent authority or the Government, to the effect that the minor mineral had been purchased from any duly authorized producer or dealer as the case may be. If he fails to produce sufficient proof to that effect the competent authority or such authorised person may recover the minor mineral or where such mineral has already been disposed of or consigned, the price thereof and also recover from the person the royalty or tax and fine, if any imposed.

48M. Extraction and sale at different places :-

(1) Every permit or lease holder shall at all time during the term of the permit or lease keep or cause to be kept at an office to be situated upon or very near the area allotted or leased correct and accurate books of accounts which shall contain accurate entries required by the competent authority such as the quantity of minor mineral daily extracted, consumed quantity sold to whom sold, price, cash memorandum No: etc.

(2) The store or the depot of the producer or the dealer should be situated adjacent to the office. The location of such office and the depot should be intimated to the competent authority before the extraction or purchase of the mineral. If the location of the office or the sales depot is to be changed or to be maintained away from the area allotted or leased the previous written permission of the competent authority shall be obtained.

48N. Inspection and Verification of Stock held by (Quarrying Permits, Quarrying Lease and Dealers licence holders) the producers and dealers :-

The holders of quarrying permit, quarrying lease and dealers licence shall allow any Police Officer not below the rank of Sub-Inspector, the competent authority, or any other person authorised by the competent authority or the Government in this behalf, to enter with or without notice any premises where minor minerals are stocked and to inspect, check and verify the stock of them.

48O. Checking of accounts of the producer and dealer :-

The producer/dealer shall afford all facilities for the checking of his

accounts and verify the stock of minor minerals and shall furnish fully and correctly any information in his possession, as may be required for the purpose of the Act and Rules.

CHAPTER 7B CONSOLIDATED ROYALTY

48P. Payment of consolidated royalty :-

46 [(1) Notwithstanding anything contrary contained in any other provisions of these rules, a holder of registered metal crusher unit for production of metals of various size from granite building stones, who is in possession of quarrying lease or permit, as the case may be, shall opt to pay consolidated royalty

47 [(2) the consolidated royalty specified in schedule IV may be remitted in two half yearly installments commencing from April and October respectively]

46 Renumbered by SRO 38/2008

47 Inserted by ibid

48Q. Form and manner of applications for registered metal crusher unit :-

(a) Every application for registration of metal crusher unit shall be made to the competent authority or to the persons authorised in this behalf in Form R.

(b) Every such application shall be accompanied by.

(i)a treasury receipted chalan for the amount of fee at the rates shown in Schedule IV remitted under the relevant receipt head of the Department of Mining and Geology.

(ii) A location map showing the exact location of the registered crusher unit (Survey No. and other details of the place on which such a depot is situated)

(c) Every application for renewal of registration shall be made at least one month before the date on which the license is due to expire, accompanied by a treasury receipted chalan for the fee at the rate shown in Schedule IV remitted under the relevant receipt head of the Department of Mining and Geology. The renewal of the registration shall be granted only to those of the crushers having a valid mineral concession such as quarrying lease or quarrying permit.

48R. Form and particulars for the grant of registration of

registered metal crusher unit :-

(1) On receipt of an application for the grant of registration of a metal crusher unit or its renewal, the competent authority after making such enquiry as it deems fit may grant or renew a registration in Form S or refuse to grant a registration.

(2) Every registration issued under sub-rule (1) shall be subjected to such conditions and restrictions as may be specified therein and to the provisions of the Act and rules.

48S. Licensing :-

Grant or refusal to register metal crusher unit: -In granting or refusing license to a metal crusher unit under sub-rule (1) of rule 48R the competent authority shall take into consideration the following matters, namely:

(i) The request for registration owned by any co-operative society in the locality possessing valid mineral concession such as quarrying lease or permit.

(ii) The number of registered metal crusher unit in the area.

(iii) Availability of the granite building stones for crushing.

48T. Display of license of a registered metal crusher unit :-

Every registered metal crusher unit shall display the registration granted to him under sub-rule (1) of rule 48 R in a prominent place of the premises open to the public.

48U. Loss of license of registered metal crusher unit :-

A true copy of the registration may be issued to the registered metal crusher unit on payment of one hundred rupees if the competent authority is convinced that the original registration is damaged defaced or lost.

48V. Cancellation of license of registered metal crusher unit :-

If a registered metal crusher unit fails to comply with any of the conditions of the registration or any of the provisions of the Act, Rules, Orders in this regard, the competent authority may, by an order in writing rescind the registration issued under these rules.

48W. Period of license of registered metal crusher unit :-

The period of registration shall be for the financial year for which it is granted and the period shall expire on the 31st march every year unless the competent authority rescinds it earlier.

48X. Cash bills of registered metal crusher unit :-

The owner or agent of a registered metal crusher unit shall cause to issue cash bill on every consignment despatched from the premises of the registered metal crusher unit showing therein the registration number allotted by the competent authority together with the details of remittance of consolidated royalty, duly authenticated by the competent authority or the persons authorized in his behalf.]

48Y. Cash memorandum for despatch of granite building stone from a registered metal crusher unit :-

48[48Y. Cash memorandum for despatch of granite building stone from a registered metal crusher unit

The owner or agent of a registered metal crusher unit shall issue a valid cash memorandum for every consignment despatched from the crusher unit in Form P of these rules duly authenticated by the competent authority or the persons authorized in this behalf as stipulated in rule 48 K]

48 Inserted by SRO 270/2008

CHAPTER 8 APPEAL AND REVIEW

49. Form of appeal :-

[1] [a] Any person aggrieved by any order made by the competent authority or authorised officer, as the case may be under these rules, may, within two months from the date of communication of the order to him, prefer an appeal in form Q to the Appellate Authority appointed by the State Government in this behalf by notification in the Gazette.

[b] Any person aggrieved by an order of the Appellate Authority under clause

[a] may, within one month from the date of communication of such order to him, prefer a second appeal in form Q to the final Appellate Authority appointed by Government in this behalf by notification in the Gazette.

Provided that any such appeal, under clause (a) or clause (b), may be entertained after the period specified therein if the appellant satisfies the appellate Authority or Final Appellate Authority, as the case may be, that he had sufficient cause for not making the appeal in time.

(c) Every appeal memorandum, under clause (a) and clause (b) shall be accompanied by the treasury receipt showing that a fee of **50**[Rs.500 (Rupees Five hundred only)] has been remitted in the Government Treasury to the credit of the State Government under the remittance Head of the Department of Mining and Geology

(2) In every appeal memorandum, under sub-rule (1) the authority against whose order the appeal is preferred shall be impleaded as a party.

(3) Along with the appeal memorandum under sub-rule (1) the appellant shall submit as many copies thereof as there are parties impleaded under sub-rule (2)

(4) On receipt of the appeal memorandum and the copies thereof the Appellate Authority or the Final Appellate Authority, as the case may be, shall send a copy of the appeal memorandum to each of the parties impleaded under sub-rule (2) specifying a date on or before which he may make his representatives if any, against the appeal

50 Substituted by SRO 264/97 wef 1.4.1994

50. Orders on appeal :-

where an appeal is made under clause (a) or clause(b) of sub rule (1) of rule 49, the Appellate Authority or the Final appellate authority, as the case may be, may confirm modify or set aside the order or pass such other order in relation there to as it may deem just and proper. The order passed by the Final Appellate Authority shall be final and binding on the parties.

51. Review :-

The competent authority or the appellate authority in case its order s have not been challenged in appeal under clause (a) or clause (b) of sub-rule (1) of rule 49, as the case may be, or the final Appellate Authority may, on its own motion or an application by the interested party, review any order passed by it and pass such orders in reference thereto as it may deem fit.

52. Opportunity of being heard :-

No order under rule 50 and 51 shall be passed against any person interested, unless he has been given a reasonable opportunity of being heard.

53. Stay orders :-

Pending the final disposal of an appeal, second appeal or review the Competent Authority, appellate authority or the final appellate authority, may, as the case may be for sufficient cause, stay the execution of the order against which appeal, second appeal or review has been made.

CHAPTER 9 MISCELLANEOUS

54. Power to rectify apparent mistakes :-

The State Government or the competent authority may, at any time within one year from the date of the order passed by them or it under these rules on its own motion rectify any mistake or error which had been brought to its notice by an applicant for the grant of a quarrying lease:

Provided that no such rectification having or purporting to have a prejudicial effect on another applicant for the grant of the quarrying lease shall be made unless the State Government or the competent authority, as the case may be, have or has given such applicant notice of their or its intention to do so and have allowed him reasonable opportunity of being heard.

Relaxation of rules in special cases: -In any cases of class of cases in which the State Government or the competent authority are or is of the opinion that public interest so requires, they or it may grant a quarrying lease on the terms and conditions other than those prescribed in these rules. .

Disposal of minor minerals by Public auction in certain cases: Notwithstanding anything contained in the foregoing provisions, the State Government or the competent authority may sell by public auction or otherwise dispose of the right to remove any minor minerals in which cases or classes and on such terms and conditions as they or it may deem fit.

55. XXX XXX XXX :-

56. XXX XXX XXX :-

57. (1) Quarrying for domestic or agricultural purposes :-

(a) ⁵¹[In cases of leveling of ground for construction of residential building, creation of playground for public purpose, construction of canals, wells, roads or for agricultural and such other purposes where extraction of minor mineral is inevitable, the State Government may grant special permit, on terms and conditions, that it may specify, other than those prescribed in these rules on the basis of an application by interested parties along with a sworn affidavit in this regard in stamp paper worth Rs. 50. They shall be exempted from obtaining quarrying permit or quarrying lease and payment of royalty for removing of minor minerals. This concession shall be limited to a quantity of mineral, the royalty for which according to item No. 4 of scheduled I rate does not exceed Rs. 5,000. For quantities exceeding this limit royalty at the scheduled rates should be paid.]

(b) Quarrying of minor minerals by any person, firm, association or company for other than bona fide domestic or agricultural purpose without a valid quarrying permit or quarrying lease shall be treated as illicit mining and shall be an offence under these rules.

(2) Quarrying for Public Purposes: - (a) ⁵²[Quarrying of minor minerals from Government owned lands including Poramboke, by Panchayats and Municipalities, for bona fide public purposes; as long as the work is done under direct supervision shall be exempt from the obligation of obtaining a quarrying permit or quarrying lease. But they shall pay royalty for all minor minerals extracted by them at the rates prescribed in Schedule 1 except minerals falling under item 2 of that schedule. The royalty shall be paid to such remittance head as the Government may by special order prescribe in this regard and shall be paid before the 10th of the succeeding month to which the royalty relates.]

Before quarrying minor minerals under this sub-rule the concerned Panchayats and Municipalities shall intimate the competent authority of their intention to conduct quarrying from any locality. In the case of Poramboke lands and reserve forests, the written permission of the District Collector and the Conservator of Forests respectively shall be produced.

Note: A Government Department quarrying minor minerals for Departmental work from Government owned land including poramboke for bona fide public purposes as long as the work is done under direct supervision of the Government Department, shall be exempted from obtaining a quarrying permit or quarrying lease and payment of royalty for removing minor minerals.

53 [(b) A contractor in the employ of any Panchayat or Municipality shall not be eligible for concession on royalty Payments even if the mining is done in Government owned lands. He shall pay the royalty on the mineral mined by him at the rates specified in schedule 1. But such a contractor shall be exempt from obtaining quarrying permit or quarrying lease provided he produces before the competent authority a certificate from the Executive Authority of the Panchayat or Municipality to the effect that the mining is done for bona fide public purpose. However such a contraction shall obtain a quarrying permit or quarrying lease, if the mining is done in any other type of lands even if the mineral is to be used for public purposes.

Note:-A contractor in the employ of any Government department quarrying minor minerals from Government owned lands including porambokes, for bona fide purposes, coming under the departmental works, shall be exempted from the obtaining a quarrying permit or quarrying lease and payment of royalty for removing minor minerals.}

(c) The Government Departments, Panchayats and Municipalities and. the contractors who are exempt from obtaining quarrying permits, quarrying leases, etc. under this sub-rule shall however submit to the competent authority returns in Forms F and G. They shall also submit returns in Form E to the concerned officers.

51 Substituted by SRO No. 259/2009

52 Substituted by Noti. No. 6519/G3/76/ID dt. 20.6.1977

53 Substituted by Noti. No. 25707/G3/75/ID dt. 15.11.1975

58. Penalties :-

54 [(1)] Whoever contravenes any provision of these rules shall be punishable with imprisonment for a term which may extend to **55**[one year, or with a fine which may extend to five thousand rupees or with both and in the case of continuing contravention, with an additional fine which may extend to five hundred rupees] for every, day during which such contravention continues after conviction for the first such contravention **56**[(2)] Whenever any person raises, without any lawful authority any minor minerals from any land, the State Government may recover from such person the minerals so raised or, where such mineral has already been disposed of, the **57**[***] and may also recover from such person, rent, royalty or

tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.] 3[Provided that in case of Government land seigniorage shall be realized in addition to the royalty: Provided further that in the case of those who opted for Consolidated Royalty Payment System exceeds the permitted extent of land shall pay the next higher slab of royalty in addition to the amount already paid] **58** [(3) Whenever any person raises, without any lawful authority any minor minerals from any land, and for that purpose, brings on the land, any tool, equipment, vehicle or any other things, such mineral, tool, equipment, vehicle or other thing shall be liable to be seized by an officer or authority specially empowered in this behalf by the Government.] **59** ((4) Illegal transport of minor minerals without any valid permit issued by a competent authority is liable for seizure of the minor mineral along with the transport vehicle, equipment and tools and the owner and/or the driver shall be liable for punishment under rule 58, irrespective of the place from where the minor minerals have been raised].

54 Renumbered by Noti. No. 5642/G3/73/ID dt. 24.4.74

55 Inserted by SRO 270/2008

56 Renumbered by Noti. No. 5642/G3/73/ID dt. 24.4.74

57 Omitted by SRO 270/2008

58 Substituted by SRO 685/92

59 Substituted by SRO 685/92

59. Cognizance of offence :-

No Court shall take cognizance of any offence punishable under these rules, except upon complaint in writing made by a person authorized in this behalf by the State Government or the competent authority. The name or the designation of such person shall be published in the Gazette.

60. Offences by companies :-

(1) If the person committing an offence under these rules is a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, shall be deemed to be

guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-rule shall render any such person liable to any punishment. If he process that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

[2] Notwithstanding anything contained in sub rule (1), where an offence under these rules, has been committed with the consent or connivance of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation: -For the purpose of this rule.

(a) "Company" means anybody corporate and includes a firm or other association of individuals.

(b) "Director" in relation to a firm means a partner in the firm.

60A. Compounding of offences :-

60[60A. Compounding of offences

[1] Any offence punishable under these rules may, either before or after the institution of the prosecution is compounded by the person authorized under rule 59 to make a complaint to the court with respect to that offence, on payment to that person, for credit to the Government of such sum as that person may specify:

Provided that in the case of an offence punishable with fine only no such sum shall exceed the maximum amount of fine which may be imposed for that offence.

(2) Where an offence is compounded under sub-rule (1) no proceeding or further proceeding as the case may be, shall be taken against the offender in respect of the offence so compounded, and the offender if in custody, shall be released forthwith.]

60 Rule 60 A and 60B inserted by Notification no. 5642/G3/73/ID dated 24.4.1974

60B. Revenue Recovery :-

61[60B. Revenue Recovery

All sums found due to the Government under or by virtue of these rules may be recovered under the provisions of the Revenue Recovery Act for the time being in force as though such sums are

arrears of land revenue and in such other manner as the Government may deem fit.]

61 Rule 60 A and 60B inserted by Notification no. 5642/G3/73/ID dated 24.4.1974

61. Role of Police :-

The competent authority or an officer authorized by it in this behalf, shall if necessary request in writing for the help of the local police and the police authorities shall render such assistance as is necessary to enable the officer to exercise the powers conferred on it or him by these rules in the matter of stopping illicit mining and preventing unauthorized movement of minerals.

62. Delegation of powers :-

The State Government or the competent authority with the previous sanction of the State Government may, by notification in the Gazette, delegate all or any of the powers vested in them or it to any officer or class of officers under them or it as the case may be.

63. Repeal :-

The Madras Minor Mineral Concession Rules, 1956 as in force in the Malabar District referred to in sub-section (2) of section 5 of the States, Reorganization Act, 1956 and all other rules or executive instructions in force relating to the extraction of minor minerals in any part of the State of Kerala immediately before the commencement of these rules shall cease to be in force except as regards things done or omitted to be done before such commencement.