

MINISTRY OF MINES
NOTIFICATION
New Delhi, the 26th July, 2012

GSR. 593(E) – In the exercise of the powers conferred by section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central government hereby makes the following rules further to amend the Mineral Concession Rules, 1960, namely:-

1. (1) These rules may be called the Mineral Concession (Amendment) Rules, 2012.
(2) They shall come into force on the date of their publication in the official Gazette.
2. In the Mineral Concession Rules, 1960 (hereinafter referred to as the said rules), in rule 2, after clause (ii), the following clause shall be inserted, namely:-
'(ii a) "illegal mining" means any reconnaissance or prospecting or mining operation undertaken by any person or a company in any area without holding a reconnaissance permit or a prospecting licence or, as the case may be, a mining lease, as required under sub-section (1) of section 4 of the Act.

Explanation – For the purpose of this clause, -

- (a) Violation of any rules, other than the rules made under section [23C](#) of the Act, within the mining lease area by a holder of a mining lease shall not include illegal mining;
 - (b) Any area granted under a reconnaissance permit or a prospecting licence or a mining lease, as the case may be, shall be considered as an area held with lawful authority by the holder of such permit or licence or a lease, while determining the extent of illegal mining.'
3. In the said rules, in rule [26](#) after sub-rule (3), the following sub-rule shall be inserted, namely:-
“(4) Notwithstanding anything contained in sub-rule (1), where an applicant for renewal of mining lease under rule 24A is convicted of illegal mining, and there are no interim orders of any court of law suspending the operation of the order of such conviction in appeals pending against such conviction in any court of law, the state Government may, after giving such applicant an opportunity of being heard and for reasons to be recorded in writing and communicated to the applicant, refuse to renew such mining lease.”
 4. In the said rules, in rule [27](#) after sub-rule (4), the following sub-rule shall be inserted, namely:-
“(4A) If the lessee holding a mining lease or a licensee holding a prospecting licence, is convicted of illegal mining and there are no interim orders of any court of law suspending the operation of the order of such conviction in appeals pending against such conviction in any court of law, the State Government may, without prejudice to any other proceedings that may be taken under the Act or the rules framed thereunder, after giving such lessee or licensee an opportunity of being heard and for reasons to be recorded in writing and communicated to the lessee or licensee, determine such mining lease or, as the case may be, cancel such prospecting licence and forfeit whole or part of the security deposit.”

Illegal mining thus limited to clauses (a to g) under section 23C, thereby defining the nature of violations and systems to check illegal mining. As per September 2012 (Unstarred Q.No. 2399), 18 states have formulated rules to control illegal mining as per Section 23 C of MMDR Act, 21 states have reported to set up task force and 13 states have set up State Coordination cum Empowered Committees. It is more from a regulatory point of view rather than curbing the menace of illegal mining which is widespread with no legal instruments like holding a licence outside a leased area. This amendment corresponds to the one's where concession has been granted. It will depend on the whole regulatory regime at the state level that this illegality is addressed. As the notification mentions, illegal mining will be determined w.r.t. lawful area held by the lessee which in one sense rules out any other instances of illegal mining where the department does not have knowledge or information regarding such activity (in the specific case of definition of 'illegal mining'). Any damages, whether environmental or human in such situations will deny justice as anything unlawfully held will not be covered unless and otherwise the states have a robust system and a will to save resources from being exploited without any leveraging for the state, whatever little it may be.

[23C (1) The State Government may, by notification in the Official Gazette, make rules for preventing illegal mining, transportation and storage of minerals and for the purposes connected therewith.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- a. establishment of check-posts for checking of minerals under transit;
- b. establishment of weigh-bridges to measure the quantity of mineral being transported;
- c. regulation of mineral being transported from the area granted under a prospecting licence or a mining lease or a quarrying licence or a permit, in whatever name the permission to excavate minerals, has been given;
- d. inspection, checking and search of minerals at the place of excavation or storage or during transit;
- e. maintenance of registers and forms for the purposes of these rules;
- f. the period within which and the authority to which applications for revision of any order passed by any authority be preferred under any rule made under this section and the fees to be paid therefor and powers of such authority for disposing of such applications; and
- g. any other matter which is required to be, or may be, prescribed for the purpose of prevention of illegal mining, transportation and storage of minerals.

(3) Notwithstanding anything contained in section 30, the Central Government shall have no power to revise any order passed by a State Government or any of its authorised officers or any authority under the rules made under sub-sections (1) and (2).]

26. Refusal of the applicant for grant and renewal of mining lease. – (1) The State Government may, after giving an opportunity of being heard and for reasons to be recorded in writing and communicated to the applicant, refuse to grant or renew a mining lease over the whole or part of the area applied for.

(2) An application for the grant or renewal of a mining lease made under rule 22 or rule 24A, as the case may be, shall not be refused by the State Government only on the ground that Form I or Form J, as the case may be, is not complete in all material particulars, or is not accompanied by the documents referred to in sub-clauses (d),(e),(f),(g) and (h) of clause (i) of sub-rule 3 of rule 22.

(3) Where it appears that the application is not complete in all material particulars or is not accompanied by the required documents, the State Government shall, by notice, require the applicant to supply the omission or, as the case may be, furnish the documents, without delay and in any case not later than thirty days from the date of receipt of the said notice by the applicant.

27. Conditions. – (1) Every mining lease shall be subject to the following conditions :

(a) the lessee shall report to the State Government the discovery in the leased area of any mineral not specified in the lease, within sixty days of such discovery;

(b) if any mineral not specified in the lease is discovered in the leased area, the lessee shall not win and dispose of such mineral unless such mineral is included in the lease or a separate lease is obtained therefor ;

(c) the lessee shall pay, for every year, except the first year of the lease, such yearly dead rent at the rate specified in the Third Schedule of the Act and if the lease permits the working of more than one mineral in the same area the State Government shall not charge separate dead rent in respect of each mineral:

Provided that the lessee shall be liable to pay the dead rent or royalty in respect of each mineral whichever be higher in amount but not both ;

(d) the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent and water rate at such rate, not exceeding the land revenue, water and cesses assessable on the land, as may be specified by the State Government in the lease ;

(e) Omitted

(f) the lessee shall commence mining operations within one year 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 ;

(g) the lessee shall at his own expenses 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 ;

(h) the lessee shall not carry on, or allow to be carried on, any mining operations at any point within a distance of fifty metres from any railway line, except under and in accordance with the written permission of the railway administration concerned or under or beneath any ropeway or ropeway trestle or station, except under and in accordance with the written permission of the authority owning the ropeway or from any reservoir, canal or other public works, or buildings, except under and in accordance with the previous permission of the State Government ;

(i) the lessee shall keep [accurate and faithful] accounts showing the quantity and other particulars of all minerals obtained and dispatched from the mine, the number and nationality of the persons employed therein, and complete plans of the mine, and shall allow any officer authorized by the Central Government or the State Government in this behalf to examine at any time any accounts, plans and records maintained by him and shall furnish the Central or the State Government with such information and returns as it or any officer authorized by it in this behalf may require ;

(j) the lessee shall keep accurate records of all trenches, pits and drillings made by him in the course of mining operations carried on by him under the lease, and shall

allow any officer authorised by the Central or the State Government to inspect the same. Such reports shall contain the following particulars, namely :-

(a) the subsoil and strata through which such trenches, pits or drillings pass ;

(b) any mineral encountered ;

(c) such other particulars as the Central or the State Government may from time to time require ;

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

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

(m) the State Government shall at all times have the right of pre-emption of the 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 minerals.

(n) The lessee shall store properly the unutilized or non-saleable sub-grade ores or minerals for future beneficiation;

(o) in respect of any mineral which in relation to its use for certain purposes is classified as a major mineral and in relation to its use for other purposes as a minor mineral, the lessee who holds a lease for extraction of such mineral under these rules whether or not it is specified as a major mineral in the lease deed, shall not use or sell the mineral

or deal with it in whatsoever manner or knowingly allow anyone to use or sell the mineral or deal with it in whatsoever manner as a minor mineral :

Provided that if on an application made to it in this behalf by the lessee, the State Government is satisfied that having regard to the inferior quality of such mineral, it cannot be used for any of the purposes by reason of which use it can be called a major mineral or that there is no market for such mineral as a major mineral, the State Government may by order permit the lessee to dispose of the mineral in such quantity and in such manner as may be specified therein as a minor mineral.

(p) the lessee shall, in the matter of employment, give preference to the tribals and to the persons who become displaced because of the taking up of mining operations ;

(q) the lessee shall not pay a wage less than the minimum wage prescribed by the Central or State Government from time to time under the Minimum Wages Act, 1948 ;

(r) the lessee shall observe the provisions of the Mines Act, 1952 [(35 of 1952) and of the Atomic Energy Act, 1962 (33 of 1962) insofar as they relate to atomic minerals included in Part B of the First Schedule to the Act];

(s) the lessee shall –

(i) take immediate measures for planting in the same area or any other area selected by the Central or State Government not less than twice the number of trees destroyed by reasons of any mining operations ;

(ii) look after them during the subsistence of the lease after which these trees shall be handed over to the State Forest Department or any other authority nominated by the Central or State Government ;

(iii) restore, to the extent possible other flora destroyed by the mining operations .

(t) the lessee shall pay to the occupier of the surface of the land such compensation as may become payable under these rules ;

(u) the lessee shall comply with the Mineral Conservation and Development Rules framed under section 18.

(2) A mining lease may contain such other conditions as the State Government may deem necessary in regard of the following, namely :-

(a) the time-limit, mode and place of payment of rents and royalties ;

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

(c) the felling of trees ;

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

(e) the notice by lessee for surface occupation ;

(f) the provision for proper weighing machines ;

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

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

(i) the securing of pits and shafts ;

(j) the reporting of accidents ;

(k) the indemnity to Government against claims of third parties;

(l) the delivery of possession of land and mines on the surrender, expiration or determination of the lease ;

[(1a) the time limit for removal of mineral, ore, plant, machinery and other properties from the lease hold area after expiration, or sooner determination or surrender or abandonment of the mining lease];

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

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

(o) filing of civil suits or petitions relating to disputes arising out of the area under lease.

[(3) The State Government may, either with the previous approval of the Central Government or at the instance of the Central Government, impose such further conditions as may be necessary in the interests of mineral development, including development of atomic minerals.]

(4) If the lessee does not allow entry or inspection under clause (i),(j) of (1) of sub-rule (1), the State Government shall give notice in writing to the lessee requiring him to show cause within such time as may be specified in the notice why the lease should not be determined and his security deposit forfeited; and if the lessee fails to show cause within the aforesaid time to the satisfaction of the State Government, the State Government may determine the lease and forfeit the whole or part of the security deposit.

(5) If the lessee makes any default in the payment of royalty as required under section 9 or payment of dead rent as required under Section 9A or commits a breach of any of the conditions specified in sub-rules (1),(2) and (3), except the condition referred to in clause (f) of sub-rule (1), the State Government shall give notice to the lessee requiring him to pay the royalty or dead rent or remedy the breach, as the case may be, within sixty days from the date of the receipt of the notice and if the royalty or dead rent is not paid or the breach is not remedied within the said period, the State Government may without prejudice to any other proceedings that may be taken against him, determine the lease and forfeit the whole or part of the security deposit.

