

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

O. A. No. 137 of 2024

IN THE MATTER OF:

Vijay Chandel

...Applicant

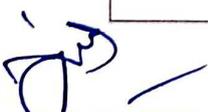
Versus

State of H.P. & Others

...Respondents

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Director of Industries,
Himachal Pradesh,

Place: Shimla
Date


Respondent No. 2/Deponent
Director of Industries
Himachal Pradesh.

Divyanshu

Through

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**IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 137 of 2024

IN THE MATTER OF:

Vijay Chandel

...Applicant

Versus

State of H.P. & Others

...Respondents

**ADDITIONAL RESPONSE BY WAY OF AFFIDAVIT IN
COMPLIANCE TO THE ORDER DATED 01.05.2025 PASSED
BY THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI, ON BEHALF OF
RESPONDENT NO. 1 & 2 THROUGH RESPONDENT NO. 2.**

MAY IT PLEASE YOUR LORDSHIPS:

I, Dr. Yunus S/o Mohammad Nazir, age 46 years, Occupation Government Service and presently posted as Director of Industries, Himachal Pradesh Shimla, do hereby solemnly affirm and state on oath as under: -

1. That it is humbly submitted that the above-mentioned Original Application came up for hearing on 01.05.2025 and on the said date, after hearing the matter at a length, the Hon'ble Tribunal was pleased to pass the order as under:

ATTESTED
By
Joint Commission

"6. Respondent No. 1- State of Himachal Pradesh is directed to file, at least one day before the date of hearing fixed, additional response giving information as to whether


**Director of Industries,
Himachal Pradesh.**

any complaint was made by the applicant to S.D.M. Nalagarh and other authorities and if yes what action was taken on the complaint regarding illegal mining made by the applicant to S.D.M. Nalagarh and other authorities.

7. *In the present case temporary permit dated 13.01.2023 was granted to Respondent No. 6- Gurdayal to sell the useable minor mineral ie., sand and soil and the excavated mineral which has been stacked on the site calculated by the Assistant Engineer Himachal Pradesh, P.W.D to the tune of 49992 MT (sand 29995 MT and soil 19997 MT) for a period of 3 months or till the material is exhausted whichever is earlier. The agreement entered into by Respondent No. 6- Gurdayal with landowners- Dwarka Das and others contained contractual stipulations permitting Respondent No. 6 to carry out mining in the agricultural land in question. The activity carried out by Respondent No. 6 is claimed to be non-mining activity and temporary permit was issued under Rule 33 of the Himachal Pradesh Minor Mineral (Concession) and Minerals (Prevention of Illegal Mining,*

ATTESTED

2nd Commissioner


**Director of Industries,
Himachal Pradesh.**

Transportation and Storage) Rules, 2015 on the ground of the same being non mining activity. The substantial environment question which arises in the present case is as to whether the activity carried out by Respondent No. 6 amounted to mining and required environmental clearance and whether camouflaged permits were issued to by-pass the requirements of environmental clearance.

8. *Respondents no. 1 to 4 are directed to file additional response in this regard at least one week before the next date of hearing fixed. The Respondents No. 1 to 4 are also directed to give in the additional response information regarding (i) number of the temporary permits issued in the State of Himachal Pradesh during the last three years and (ii) the mining leases granted during the last three years in the State of Himachal Pradesh.*"

2. That in respect to the first query raised by this Hon'ble Tribunal vide para 6 of aforementioned order dated 01.05.2025, it is humbly submitted that the applicant i.e. Sh. Vijay Chandel has not made any complaint regarding illegal mining to any authority including field officer of the

**Director of Industries,
Himachal Pradesh.**

ATTENDED
Date: _____
Committed to

respondent department i.e. Industries Department. Hence, this query call for no reply from the replying respondents.

3. That in respect to the second query raised by this Hon'ble Tribunal vide para 7, it is humbly submitted that in the respondent State, mining activities are regulated as per the provisions contained in the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter called as MMDR Act, 1957) and the Rules namely 'the Himachal Pradesh Minor Mineral (Concession) and Minerals (Prevention of illegal Mining, Transportation and Storage) Rules, 2015', framed by the State Government in exercise of the powers conferred under Section 15 read with Section 23 C of the said Act.

4. That section 3 (d) of MMDR Act, 1957 provides the definition of 'mining operations' as under:

“(d) “mining operations” means any operations undertaken for the purpose of winning any mineral;”

Further, section 4(1) of MMDR Act, 1957 provides that no person shall undertake mining operations in any area, except under and in accordance with the terms and conditions of a mining lease granted under the Act and the rules made thereunder. The extracts of section 3 (d) & 4(1) of MMDR Act, 1957, are enclosed herewith as **Annexure R-1 (Colly)** for kind perusal of this Hon'ble Tribunal.

A T T E S E D

Signature
Oath Commissioner.

Signature
Director of Industries,
Himachal Pradesh.

However, it is relevant to mention here that the Ministry of Mines, Govt. of India has passed an order dated 01.06.2023 whereby, the said Ministry has issued instructions to the State Governments in respect to the disposal of minerals (except the minerals prescribed under Part A and Part B of the First Schedule of the Act) excavated while undertaking of public works such as roads, canals, pond digging and other infrastructure development projects. As per the said order, the above activities do not fall under the preview of 'mining operations'. The above order provides as under:

"ORDER

Whereas, the Mines and Minerals (Development and Regulation) Act, 1957 ('the Act') was enacted to provide for development as well as regulation of mines and minerals in the country.

And whereas, section 3(d) of the Act defines 'mining operations' as any operations undertaken for the purpose of winning any mineral. Further, section 4(1) of the Act provides that no person shall undertake mining operations in any area, except under and in accordance with the terms and conditions of a mining lease granted under the Act and the rules made thereunder.

And whereas, in various places in the country, mineral deposits are found as outcrops (on the top soil) and occur in small quantity. Such

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Oath Commissioner.

Director of Industries
Himachal Pradesh.

deposits sometimes get excavated while undertaking of public works, such as roads, canals, pond digging and other infrastructure development projects. Excavation of such deposits, which is incidental to undertaking of public works, does not fall under the purview of 'mining operations', as the purpose of undertaking such works is not winning of any mineral but to construct some infrastructure. Thus, granting of mining lease is not practical in such cases where the purpose of undertaking public work is not wining of mineral and also the quantity of mineral obtained is meager. Accordingly, such cases do not attract provision of section 4(1) of the Act.

A copy of order dated 01.06.2023 is enclosed herewith as **Annexure R-2** for perusal of this Hon'ble Tribunal.

5. That Rule 33 of 'the Himachal Pradesh Minor Mineral (Concession) and Minerals (Prevention of illegal Mining, Transportation and Storage) Rules, 2015' as amended time to time, makes a specific provision for getting permission for the disposal of already generated minor minerals due to development activities. The said rule itself makes it clear that development activities means and includes excavation of tunnel for hydro electric projects, construction of tunnels for connectivity of roads/railways track and construction of various National Highways/State Highways/any other roads,

A T T E S T E D

Oath Commissioner.

Director of Industries,
Himachal Pradesh.

- 7 -

de-silting of reservoir, removal of sand and gravel from agricultural fields, grass lands after monsoon season up to a depth of 2 meters, development of plots, excavation of fisheries ponds and any kind of other development activities. An extract of Rule 33 of ibid Rules, 2015 as amended time to time is enclosed herewith as **Annexure R-3** for kind perusal of this Hon'ble Tribunal.

6. That it is important to mention here that Himachal Pradesh is a hilly state and due to typical topographical conditions in such hilly terrain , whenever any development activity such as construction of houses, cow sheds, village road, cremation ground, ponds etc., is carried out, the material/minor mineral i.e. sand, stone, soil & bajri gets generated. Here, the purpose of undertaking such development works is not winning of any mineral as mentioned under section 3 (d) of MMDR Act, 1957 but to construct some infrastructure on the developed plot. As such, in no way, these activities fall within the purview of 'mining operations' specifically in the light of order dated 01.06.2023 referred above issued by the Ministry of Mines, Govt. of India. Otherwise also, if the permissions under Rule 33, for the disposal of already generated material are not granted, then it would become very difficult to stack such material on the slopes due to the limited space. Resultantly, the people will start throwing such material either in the Nallas or at any place in haphazard manner which in turn will cause environment degradation and also cause royalty loss & other taxes which

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Oath Commission

Director of Industries
Himachal Pradesh.

is charged by the respondent department under Rule 33 for disposal of minor mineral already generated due to development activities.

7. That it is equally important to mention here that the Ministry of Environment, Forest & Climate Change, Govt. of India has issued a Notification dated 28.03.2020 under the Environment (Protection) Act, 1986 whereby certain amendments have been made in the EIA Notification, 2006. Vide above Notification, the said Ministry has also substituted the Appendix-IX which provides the list of those cases (1 to 13) which have been exempted from the requirement of prior Environment Clearance. A copy of Notification dated 28.03.2020 is enclosed herewith as **Annexure R-6** for kind perusal of this Hon'ble Tribunal. For the issue in hand serial No. 6 & 11 are relevant and the same area reproduced herein as under:

"APPENDIX-IX
EXEMPTION OF CERTAIN CASES FROM
REQUIREMENT OF ENVIRONMENTAL
CLEARANCE

The following cases shall not require Prior Environmental Clearance, namely:-

6. *Extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc.*
11. *Digging of foundation for buildings, not requiring prior environmental clearance, as the case may be."*

ATTESD

Oath Completed

Director of Industries
Himachal Pradesh.

-9-

It is relevant to mention here that, the respondent department grants permissions under Rule 33, for disposal of that minor minerals, which stands already generated due to the development of plot carried out for the purpose of making foundation for the construction of house, cow shed & other buildings as well as other linear projects such as sericulture, horticulture, agriculture etc. and as per the above serial No. 6 & 11 of Notification dated 28.03.2020, no prior environment clearance is mandatory. Similarly, after completion of all codal formalities required under the above rule 33, the replying respondent No. 2, had issued permission in favour of respondent No. 6 i.e. Sh. Gurdayal Singh vide order 13.01.2023 to sell the useable minor mineral i.e. sand, soil and the already excavated mineral which has been stacked on the site calculated by the Assistant Engineer Himachal Pradesh, P.W.D. to the tune of 49992 M.T. (sand 29995 MT and soil 19997 MT) for a period of 3 months or till the material is exhausted, whichever is earlier. A copy of order dated 13.01.2023 is enclosed herewith as **Annexure R-4** for kind perusal of this Hon'ble Tribunal. Hence, there was no need to take prior environment clearance in the present case also.

8. That in respect to the third query raised by this Hon'ble Tribunal vide para 8, it is respectfully submitted that for disposal of that minor minerals which stands already generated due to the development of plot carried out for the purpose of making foundation of house, cow shed and other

ATTESTED
Date: _____


Director of Industries
Himachal Pradesh

buildings as well as other linear projects such as sericulture, horticulture, agriculture etc., the respondent department has granted 136 number of permissions in favour of the respective applicants after completion of all codal formalities required under Rule 33 the above Rules 2015 as amended time to time, for a maximum period of three months.

It is further submitted that the respondent department grants the mining leases after completion of all codal formalities including Environment Clearance, Forest Clearance (wherever applicable) & Mining Plan etc., as per the above Rules 2015. Accordingly, during the last three years w.e.f. 01.04.2022, the respondent department has granted 235 numbers of mining leases for a minimum period of five years and maximum period of fifteen years depending upon the mineral reserves over the mining lease areas.

9. That the present Affidavit may kindly be taken on record in the interest of justice.


Respondent No.2/Deponent
Director of Industries
Himachal Pradesh.

VERIFICATION:

I, the above deponent do hereby verify that the contents of this Affidavit from para 1 to 9 are true and correct to the best of my knowledge and belief, as the information has been derived from the official record. No part of it is false and nothing material has been concealed there from.

A T T E S T
Oath Commissioner.

Verified at Shimla on this day 8th July, 2025.

Place: Shimla
Date 8.7.25

Respondent No. 2/Deponent
Director of Industries
Himachal Pradesh

Through

Divyanshu

(DIVYANSHU KUMAR SRIVASTAVA)

48, Lawyer's Chamber, Supreme
Court, Tilak Marg, New Delhi-
110001

Dksrivastava0511@gmail.com
9711872319

Jaswant Singh
Identified by

ATTESTED

Oath Commissioner

Certified that the above deponent was declared before me on solemn affirmation on this 8th day of July at Shimla in the District of Shimla by Jaswant Singh who was identified by Jaswant Singh who is personally known to me and the contents of the above affidavit have been read over & explained to the deponent in vernacular who admitted them to be correct and true at the time of making thereof 8.7.25

Ali Cuttings, Corrections & Additions are attested by me

8.7.25
Oath Commissioner

Oath Commissioner
HP High Court, Shimla



M-10

UNIVERSAL'S

NEW DELHI - INDIA

The Mines and Minerals (Development and Regulation) Act, 1957

(67 of 1957)

as amended by

The Mineral Laws (Amendment) Act, 2020 (2 of 2020)
(w.r.e.f. 10-1-2020)

with:

- The Mines and Minerals (Development and Regulation) Removal of Difficulties Order, 2017
- The Mineral Concession Rules, 1960 *as amended by (Amendment) Rules, 2020*
- The Mineral Conservation and Development Rules, 2017 *as amended by (Amendment) Rules, 2019*
- The Granite Conservation and Development Rules, 1999
- The Marble Development and Conservation Rules, 2002
- The Colliery Control Rules, 2004
- The Coal Blocks Allocation Rules, 2017 *as amended by (Amendment) Rules, 2020*
- The Minerals (Evidence of Mineral Contents) Rules, 2015
- The Mineral (Auction) Rules, 2015 *as amended by (Amendment) Rules 2020*
- The Mineral (Non-Exclusive Reconnaissance Permits) Rules, 2015
- The National Mineral Exploration Trust Rules, 2015
- The Mines and Minerals (Contribution to District Mineral Foundation) Rules, 2015
- The Mineral (Mining by Government Company) Rules, 2015 *as amended by (Amendment) Rules, 2019*
- The Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 *as amended by (Amendment) Rules, 2020*
- The Minerals (Transfer of Mining Lease Granted Otherwise than through Auction for Captive Purpose) Rules, 2016
- The Atomic Minerals Concession Rules, 2016 *as amended by (Second Amendment) Rules, 2019*
- National Mineral Policy, 2019

2021

BARE ACT
WITH SHORT NOTES

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Approved
by
Geological
Deptt. of Industries
(Geological Wing)
H.P. Shrivastava

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957

(67 of 1957)¹

[28th December, 1957]

An Act to provide for the ²[development and regulation of mines and minerals] under the control of the Union.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Mines and Minerals ³[(Development and Regulation)] Act, 1957.

(2) It extends to the whole of India.

(3) It shall come into force on such date⁴ as the Central Government may, by notification in the Official Gazette, appoint.

2. Declaration as to the expediency of Union control.—It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent hereinafter provided.

COMMENTS

(i) By virtue of section 2, the State Legislature is denuded of its legislative power to make any law with respect of regulation of mines and mineral development of extent provided in the Act. Thus there is no question of the State having any power to frame a policy *de hors* the MMDR Act and Rules; *Sandur Manganese & Iron Ores Ltd. v. State of Karnataka*, JT 2010 (10) SC 157; (2010) 9 SCALE 492; 2010 (6) Supreme 569.

(ii) The word 'regulation' has to be read in the context in which it has been used. The word 'regulation' has been defined as a rule or order prescribed for management or governance; *Saurashtra Cement and Chemical Industries v. Union of India*, AIR 2001 SC 8.

(iii) Levy of taxes/cesses on minerals by States is not permissible. The denudation of the States is not partial. It is total. They cannot levy any tax or cess on minerals so long as the declaration in section 2 stands; *P. Kannadasan v. State of Tamil Nadu*, AIR 1996 SC 2560.

3. Definitions.—In this Act, unless the context otherwise requires,—

⁵[(a) "leased areas" means the area specified in the mining lease within which mining operations can be undertaken and includes the non-mineralised area required and approved for the activities falling under the definition of mine as referred to in clause (i);]

⁵[(aa) "minerals" includes all minerals except mineral oils;]

1. The Act has been extended to the Union territories of—(1) Goa, Daman and Diu by Reg. 12 of 1962; Goa is now a state, see Act 18 of 1987, sec. 3 (w.e.f. 30-5-1987); (2) Dadra and Nagar Haveli by Reg. 6 of 1963, and (3) Pondicherry by Reg. 7 of 1963. Enforced in Sikkim on 7-1-1980, vide G.S.R. 2(E), dated 5th January, 1980.
2. Subs. by Act 38 of 1999, sec. 2, for "regulation of mines and the development of minerals" (w.e.f. 18-12-1999).
3. Subs. by Act 38 of 1999, sec. 3, for "(Regulation and Development)" (w.e.f. 18-12-1999).
4. Came into force on 1-6-1958, vide G.S.R. 432, dated 29th May, 1958, published in the Gazette of India, Extra. Pt. II, Sec. 3(i), p. 225.
5. Subs. by Act 25 of 2016, sec. 2, for clause (a) (w.e.f. 6-5-2016). Clause (a), before substitution, stood as under:

'(a) "minerals" includes all minerals except mineral oils;'

Attested
 Geologist
 Deptt. of Industries
 (Geological Wing)
 H.P. Shimla-1

4 The Mines and Minerals (Development and Regulation) Act, 1957 [Sec. 3

- (b) "mineral oils" includes natural gas and petroleum;
- (c) "mining lease" means a lease granted for the purpose of undertaking mining operations, and includes a sub-lease granted for such purpose;
- (d) "mining operations" means any operations undertaken for the purpose of winning any mineral;
- (e) "minor minerals" means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral;
- ¹[(ea) "notified minerals" means any mineral specified in the Fourth Schedule;]
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "prospecting licence" means a licence granted for the purpose of undertaking prospecting operations;
- ²[(ga) "prospecting licence-cum-mining lease" means a two-stage concession granted for the purpose of undertaking prospecting operations followed by mining operations;]
- (h) "prospecting operations" means any operations undertaken for the purpose of exploring, locating or proving mineral deposits; ³[***]
- ⁴[(ha) "reconnaissance operations" means any operations undertaken for preliminary prospecting of a mineral through regional, aerial, geophysical or geochemical surveys and geological mapping, but does not include pitting, trenching, drilling (except drilling of boreholes on a grid specified from time to time by the Central Government) or sub-surface excavation;]
- ⁴[(hb) "reconnaissance permit" means a permit granted for the purpose of undertaking reconnaissance operations; ⁵[***]]
- ⁶[(hc) "Special Court" means a Court of Session designated as Special Court under sub-section (1) of section 30B; and]
- (i) the expressions, "mine" and "owner", have the meanings assigned to them in the Mines Act, 1952.

COMMENTS

Minerals need not necessarily be dug out from the earth and what is dug out from the earth need not necessarily be a mineral. Therefore, 'mineral' means an inorganic substance found either on or in the earth which may be garnered and exploited for profit; *V.P. Pithupitchai v. Special Secretary to the Government of Tamil Nadu*, AIR 2003 SC 2455.

GENERAL RESTRICTIONS ON UNDERTAKING PROSPECTING AND MINING OPERATIONS

4. Prospecting or mining operations to be under licence or lease.—(1) ⁷[No person shall undertake any reconnaissance, prospecting or mining operations in

1. Ins. by Act 10 of 2015, sec. 2(i) (w.r.e.f. 12-1-2015).
2. Ins. by Act 10 of 2015, sec. 2(ii) (w.r.e.f. 12-1-2015).
3. The word "and" omitted by Act 38 of 1999, sec. 4 (w.e.f. 18-12-1999).
4. Ins. by Act 38 of 1999, sec. 4 (w.e.f. 18-12-1999).
5. The word "and" omitted by Act 10 of 2015, sec. 2(iii) (w.r.e.f. 12-1-2015).
6. Ins. by Act 10 of 2015, sec. 2(iv) (w.r.e.f. 12-1-2015).
7. Subs. by Act 38 of 1999, sec. 5, for certain words (w.e.f. 18-12-1999).

Attested

 Geologist
 Dept. of Industries
 (Geological Wing)
 H.P. Shimla-1

Sec. 4] *The Mines and Minerals (Development and Regulation) Act, 1957* 5

any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder]:

Provided that nothing in this sub-section shall affect any prospecting or mining operations undertaken in any area in accordance with the terms and conditions of a prospecting licence or mining lease granted before the commencement of this Act which is in force at such commencement:

¹[Provided further that nothing in this sub-section shall apply to any prospecting operations undertaken by the Geological Survey of India, the Indian Bureau of Mines, ²[the Atomic Minerals Directorate for Exploration and Research] of the Department of Atomic Energy of the Central Government, the Directorates of Mining and Geology of any State Government (by whatever name called), and the Mineral Exploration Corporation Limited, a Government company within the meaning of ³[clause (45) of section 2 of the Companies Act, 2013 (18 of 2013), and any such entity that may be notified for this purpose by the Central Government]:

⁴[Provided also that nothing in this sub-section shall apply to any mining lease (whether called mining lease, mining concession or by any other name) in force immediately before the commencement of this Act in the Union Territory of Goa, Daman and Diu.]

⁵[(1A) No person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of this Act and the rules made thereunder.]

(2) ⁶[No reconnaissance permit, prospecting licence or mining lease] shall be granted otherwise than in accordance with the provisions of this Act and the rules made thereunder.

⁷[(3) Any State Government may, after prior consultation with the Central Government and in accordance with the rules made under section 18, ⁸[undertake reconnaissance, prospecting or mining operations with respect to any mineral specified in the First Schedule in any area within that State which is not already held under any reconnaissance permit, prospecting licence or mining lease].]

COMMENTS

Although scope of section 4(1) has been widened, the insertion of sub-section (3) clearly reflects a statutory intention that an opportunity of hearing must be given before the order of termination is passed, presumably as such an order widely affects the rights of the lessees; *Assam Sillimanite Ltd. v. Union of India*, AIR 1990 SC 1417.

1. Ins. by Act 37 of 1986, sec. 2 (w.e.f. 10-2-1987).
2. Subs. by Act 38 of 1999, sec. 5, for "the Atomic Minerals Division" (w.e.f. 18-12-1999).
3. Subs. by Act 10 of 2015, sec. 3, for "section 617 of the Companies Act, 1956 (1 of 1956)" (w.r.e.f. 12-1-2015).
4. Ins. by Act 16 of 1987, sec. 14 (w.r.e.f. 1-10-1963).
5. Ins. by Act 38 of 1999, sec. 5 (w.e.f. 18-12-1999).
6. Subs. by Act 38 of 1999, sec. 5, for "No prospecting licence or mining lease" (w.e.f. 18-12-1999).
7. Ins. by Act 37 of 1986, sec. 2 (w.e.f. 10-2-1987).
8. Subs. by Act 38 of 1999, sec. 5, for certain words (w.e.f. 18-12-1999).

Attested



Geologist
Dept. of Industries
(Geological Wing)
H.P. Shimla-1

No. M.VI-16/123/2021-Mines VI

Government of India

Ministry of Mines

Shastri Bhawan, New Delhi.

Dated: 1st June, 2023.

ORDER

Whereas, the Mines and Minerals (Development and Regulation) Act, 1957 ('the Act') was enacted to provide for development as well as regulation of mines and minerals in the country.

And whereas, section 3(d) of the Act defines 'mining operations' as any operations undertaken for the purpose of winning any mineral. Further, section 4(1) of the Act provides that no person shall undertake mining operations in any area, except under and in accordance with the terms and conditions of a mining lease granted under the Act and the rules made thereunder.

And whereas, in various places in the country, mineral deposits are found as outcrops (on the top soil) and occur in small quantity. Such deposits sometimes get excavated while undertaking of public works, such as roads, canals, pond digging and other infrastructure development projects. Excavation of such deposits, which is incidental to undertaking of public works, does not fall under the purview of 'mining operations', as the purpose of undertaking such works is not winning of any mineral but to construct some infrastructure. Thus, granting of mining lease is not practical in such cases where the purpose of undertaking public work is not winning of mineral and also the quantity of mineral obtained is meager. Accordingly, such cases do not attract provision of section 4(1) of the Act.

And whereas, although the mineral is excavated in such cases as an incidence to undertaking public works, it is necessary to provide measures for its conservation and proper disposal. Section 18 of the Act provides that it shall be duty of the Central Government to take all such steps as may be necessary for conservation and systematic development of minerals in India. It is also pertinent to state that

Attended
[Signature]

Geologist
Deptt. of Industries
(Geological Wing)
H.P. Shimla-1

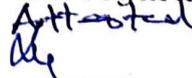
-17-

natural resources, including minerals, are a shared inheritance where the State is a trustee on behalf of the people and therefore it is imperative that these minerals are appropriately disposed in larger public interest. Accordingly, there is need to provide manner of disposal of such minerals in the national interest and to ensure transparency as well as ease of doing business.

And whereas, section 20A of the Act provides that notwithstanding anything contained in the Act, the Central Government may issue such directions to the State Governments, as may be required for the conservation of mineral resources, or any policy matter in the national interest, and for the scientific and sustainable development and exploitation of mineral resources.

Now therefore, in exercise of the powers conferred under section 20A of the Act, the Central Government, in the national interest, hereby directs the State Governments concerned to dispose the minerals (except the minerals prescribed under Part A and Part B of the First Schedule of the Act) obtained in any public work, such as road, canals, pond digging or any other government infrastructure development projects carried out by any Government Agency authorized to do so by the Central or State Government, in the manner specified below:-

- i. The State Government shall at all times have the right of pre-emption of the minerals so obtained.
- ii. The State Government may dispose the minerals so obtained through:
 - (a) Auction by method of competitive bidding by the Directorate or Department of Mining and Geology ('DMG') of the State Government (by whatever name called) or through the Government department executing the work or any other department of the State Government on behalf of the DMG; or
 - (b) supplied to or handed over to State or Central Public Sector Undertaking or any other Government entity for its consumption, use or disposal.
- iii. For the purpose of disposal of minerals, the DMG or the Government Department authorized in this regard, may carry out

Attested

 Geologist
 Deptt. of Industries
 (Geological Wing)
 H.P. Shimla-1

.... 3

- survey, chemical analysis or any other activity required for ascertaining the quantity and grade of the minerals.
- iv. It shall be ensured that the entity procuring the mineral in the auction should be registered with the Indian Bureau of Mines under rule 45 of the Mineral Conservation and Development Rules, 2017 (for the purpose, a condition may be included at the time of auction).
 - v. The State Government shall maintain a record of minerals so obtained and subsequently disposed of; and furnish the data to the Central Government as and when required to do so.
 - vi. In the event of failure of auction as provided hereinabove, the mineral shall be supplied to or handed over to a State or Central Public Sector Undertaking or any other Government entity for its consumption, use or disposal as prescribed for the mineral in the manner as deemed fit by the State Government concerned.



(Dr. Veena Kumari Dermal)

Joint Secretary to the Government of India

Phone No. 011-23388345

Email: veena.kumarid@gov.in

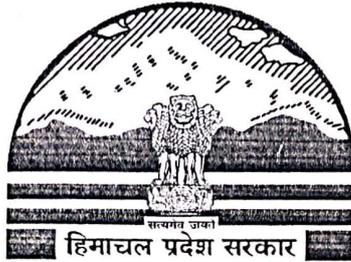
To:

1. Principal Secretary / Secretary / DMGs of Mining Department of all State Governments / Union Territories
2. Controller General, Indian Bureau of Mines




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Deptt. of Industries
(Geological Wing)
H.P. Shimla-1

GOVERNMENT OF HIMACHAL PRADESH
DEPARTMENT OF INDUSTRIES
"GEOLOGICAL WING"



**THE HIMACHAL PRADESH MINOR MINERALS
(CONCESSION) AND MINERALS (PREVENTION
OF ILLEGAL MINING, TRANSPORTATION AND
STORAGE) RULES, 2015**

Rules published in Rajpatra of Himachal Pradesh dated 21st March 2015 vide
Government of Himachal Pradesh Industries Department
Notification No. Ind-II(F)6-14/2014 dated 13.03.2015

Attested
[Signature]

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- (d) any other condition imposed by the competent authority; and
- (e) any violation of terms and conditions imposed while granting such permission shall result in cancellation of permit and forfeiture of security amount thereof:
Provided that the permit holder may use any type of excavator in case of hill slope mining.

32. **Forfeiture of minor mineral left after cancellation of the permit.**- In case of breach of any of the conditions subject to which the permit has been granted, the Director or the authority issuing the permit, may cancel it. On cancellation of the permit, the extracted/removed material lying on the land from which they are extracted shall become absolute property of the Government.

33. **Permission for disposal of minor mineral generated due to non-mining activities.**- (1) Notwithstanding anything contained in these rules, the Director or any Officer authorized by him in this behalf, may grant permission for lifting/transportation of minor minerals generated during various developmental activities and natural calamities for a specific purpose and period. The permission will be given after the site is inspected by a Committee consisting of Tehsildar, Assistant Engineer (Public Works Department) and Mining Officer which may also assess the availability of stock thereof.

Explanation:- For the purpose of this rule the developmental activities shall mean excavation of tunnel for hydro electric projects, construction of tunnels for connectivity of roads/railways track and construction of various National Highways/state highways, de-silting of reservoir, development of plots, excavation of fisheries ponds and any kind of other developmental activities.

(2) The aforesaid permission shall be subject to fulfillment of following conditions:-

- (i) the royalty shall be charged on the saleable mineral in advance as per the rates specified in the second schedule;
- (ii) the permission shall be granted on the forest land after getting specific clearance from the Forest Department;
- (iii) the permission shall be granted only for lifting/transportation of such stock which has been assessed by the Committee; and
- (iv) any other conditions as may be imposed by the sanctioning authority in this behalf.

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No.Udyog -Bhu(Khani-4)Laghu-103-2022
Government of Himachal Pradesh,
Department of Industries,
"Geological Wing"

**_*_

Dated, Shimla-171009, the

2023.

Order

Whereas, Sh. Gurdayal Singh S/o Sh. Chhaju Ram, Village Kalyanpur P.O. & Tehsil Baddi, Distt. Solan, H.P. has requested to accord the permission to sell the raw material generated during the plot development for construction of leveling of land over Khasra No. 466, 468 and 469 measuring 13-17 bighas, falling in mauza Khol, Tehsil Baddi, Distt. Solan H.P

Whereas, the proposal was sent to Mining Officer, Solan to conduct the joint inspection to verify genuineness of activities and quantification of the material generated during the above said activity through the Joint Inspection Committee as per the provisions contained in the Rule-33 of the Himachal Pradesh Minor Minerals (Concession) and Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2015. The said Committee physically verified/assessed the stock to the tune of 49992 M.T (Sand 29995 M.T & Soil 19997 M.T) of useable minor mineral i.e sand and soil which was stacked at the site.

Hence, on the basis of recommendations of the Joint Inspection Committee, you are hereby authorized to issue permission to sell the useable minor mineral i.e sand and soil and the excavated mineral which has been stacked on the site calculated by the Assistant Engineer, HPPWD to the tune of 49992 M.T (Sand 29995 M.T & Soil 19997 M.T) for a period of 3 months or till the material is exhausted, whichever is earlier in favour of Sh. Gurdayal Singh S/o Sh. Chhaju Ram, Village Kalyanpur P.O. & Tehsil Baddi, Distt. Solan, H.P. under Rule-33 of the ibid rule, subject to the following conditions:-

1. You shall ensure that prior to issuance of permission against this order all statutory requirements/clearance/NOC, if any required from the concerned departments/agencies w.r.t. the above project activities are complied/obtained by the project proponent.
2. The permission holder shall use the above mentioned material which is stacked at site.

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3. That transportation of raw material should be prohibited between 8.00 PM to 6.00 AM.
4. That the permission holder should not be allowed to sell the raw material outside the State.
5. The above permission shall not construed to be license to carry out mining activity in contravention to all prevailing Rule/regulation and is being issued only to dispose of already stacked mineral under Rule-33.
6. That at any stage, if the permission holder is found guilty of misusing the permission, the same shall be withdrawn immediately.
7. In case the permission holder is found indulged in illegal mining activities, the said permission may be suspended immediately followed by initiating legal action against permission holder as per existing provision.

**The Mining Officer,
Solan, Distt. Solan, H.P.**

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Endst:No.Udyog-Bhu(Khani-4) Laghu-103-2022

Copy to the following for information & necessary action:-

1. The Tehsildar, Baddi, Distt. Solan, H.P. w.r.t. joint inspection report dated 27.12.2022.
2. The Assistant Engineer, H.P.P.W.D, Sub-Division, Solan, Tehsil Baddi, Distt. Solan, H.P. w.r.t. Joint inspection report dated 27.12.2022
3. Sh. Gurdayal Singh S/o Sh. Chhaju Ram, Village Kalyanpur P.O. & Tehsil Baddi, Distt. Solan, H.P. for information.
4. Guard file.

Director of Industries,
Himachal Pradesh.
dated 13/01/2023.

Director of Industries,
Himachal Pradesh.

Attested
[Signature]

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(Geological Wing)
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