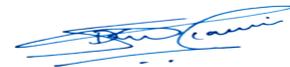


BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, WESTERN ZONE BENCH**PUNE AT PUNE.****ORIGINAL APPLICATION NO. 54 OF 2022****MR. DATTATRAYA PHALKE****.....APPLICANT****V/s****UNION OF INDIA AND OTHERS****.....RESPONDENTS****INDEX**

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Place-Pune
Date-03/02/2023

ADVOCATE FOR THE RESPONDENT NO.6

ANNEXURE -R-1

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(BEFORE K.S.P. RADHAKRISHNAN AND C.K. PRASAD, JJ.)

a DEEPAK KUMAR AND OTHERS .. Petitioners;

Versus

STATE OF HARYANA AND OTHERS .. Respondents.

IAs Nos. 12-13 of 2011 in SLPs (C) Nos. 19628-29 of 2009[†] with SLPs

(C) Nos. 729-31 of 2011, 21833 of 2009, 12498-99 of 2010,

b SLPs (C) Nos. CC ... 16157 and 18235 of 2011,
decided on February 27, 2012

c **A. Environment Protection and Pollution Control — Mining — Minor minerals — Environmental impact assessment not required for mining areas of less than 5 ha — Invalidity — Mining/quarrying of minor minerals, boulders, gravel and sand in notified areas and riverbeds — Environmental consequences of — Necessary directions issued**

d — **Inspection report submitted by CEC silent on serious illegal sand mining activities in rivers and prevailing degree of degradation of environment especially on riverbeds — Auction notices concerned stating that for mining leases of area less than 5 ha no environmental impact assessment clearance was required by MoEF, GoI Noti. dt. 14-9-2006 — No light thrown on question whether there has been, in fact, an attempt to flout the Noti. dt. 14-9-2006 by breaking the homogeneous area into pieces of less than 5 ha — Deep concern expressed by Supreme Court on possible adverse environmental/ecological consequences of mining leases on rivers of fragile Shivalik Hills**

e — **Held, there are no materials to come to conclusion that removal of minor minerals, boulders, gravel and sand quarries, etc. covered by auction notices would not cause environmental degradation or threat to biodiversity — Auction notices were issued without conducting any study on possible environmental impact on/in riverbeds and elsewhere**

f — **When faced with a situation where extraction of alluvial material within or near a riverbed has an impact on river's physical habitat characteristics it is not an answer to say that extraction is in blocks of less than 5 ha, separated by 1 km — Collective impact may be significant, therefore, necessity of a proper environmental assessment plan is not done away with — Hence, States/UTs directed that all leases of minor minerals including their renewal for an area of less than five hectares could be granted only after getting EIA (environmental impact assessment) clearance from MoEF, GoI — Recommendation issued to States to prepare "comprehensive mines plan" for contiguous stretches of mineral deposits to be suitably incorporated in Mineral Concession Rules, 1960 by Ministry of Mines, GoI — Constitution of India — Arts. 21, 48-A and 51-A(g) — Minor Minerals Conservation and Development Rules, 2010 — Mines and Minerals (Development and Regulation) Act, 1957, Ss. 3(e), 70 and 15 (Paras 3, 4, 8 to 15 and 20 to 29)**

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[†] From the Judgment and Order dated 15-5-2009 of the High Court of Punjab and Haryana at Chandigarh in CWPs Nos. 20134 of 2004 and 4758 of 2008

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B. Environment Protection and Pollution Control — Mining — Effective mining plan framework — Necessity of — Recommendations issued by MoEF, Government of India and Model Rules, 2010 framed by Ministry of Mines, GoI — Non-implementation of, by States and UTs — Directions issued — Held, all States', UTs' MoEFs and Ministries of Mines directed to give effect to recommendations of MoEF, GoI and model guidelines within a period of six months from date of this order and to submit their compliance reports — Central Government also directed to take steps to bring into force Minor Minerals Conservation and Development Rules, 2010 at the earliest — Directions issued to State Governments and UTs to take immediate steps to frame necessary rules under S. 15 of Mines and Minerals (Development and Regulation) Act, 1957 — Further directions passed — Mines and Minerals (Development and Regulation) Act, 1957, S. 15

B-D/49566/C

Advocates who appeared in this case :

Mohan Jain, Additional Solicitor General, Narender Hooda, Senior Additional Advocate General, Dr Manish Singhvi, Additional Advocate General, P.S. Narasimha, Gopal Subramaniam, Ranjit Kumar, P.S. Patwalia and Ranbir Chandra, Senior Advocates [Gaurav Agarwal, K. Parmeswar, Haris Beeran, P.K. Manohar, V. Venayagam Balan, Shish Pal Laler, N.P. Midha, Balbir Singh Gupta, D.K. Thakur, B.K. Prasad, S.N. Terdal, Shivendra Dwivedi, Tarjit Singh, Manjit Singh (for Kamal Mohan Gupta), Aseem Mehrotra, Mohd. F. Khan, Ms Shefai Jain, R.P. Singh, Shree Pal Singh, Devashish Bharuka, Radhashyam Jena, Tapesh Kr. Singh, Samir Ali Khan, Jitender Mohan Sharma, Sandeep Singh, Vibhor Verdhan, Sameer Singh, Mohit Kr. Shah, Ashutosh Singh, Devanshu K. Devesh, Irshad Ahmad, Sarvesh Singh, A. Benayagamblan, Manish Pitale, Wasi Haider, C.S. Ashri, Ms Asha G. Nair, Sanand Ramakrishnan, Ms Meena C.R., M/s Karanjawala & Co., Prakash Kr. Singh, Vijay Panjwani, Ms Anitha Shenoy, Ms Vibha Datta Makhija, D.S. Mahra, Ms H. Wahi, D.K. Sinha, Milind Kumar, Krishananand Pandey, Kamendra Mishra, Ms Rachana Srivastava, B.S. Banthia, Gopal Singh, Anil Srivastava, M/s Corporate Law Group, T.V. George, Naresh K. Sharma, Prashant Bhushan, Shibashish Misra, Ms Purna Mehta, S.M. Jadhav, Shiv Kr. Suri, G. Prakash, E.M.S. Anam, Subhro Sanyal, Himinder Lal, Moinuddin Ansari, L.R. Singh, C.D. Singh, Ms Lalitha Kaushik, K.S. Bhati, Neeraj Shekhar, Ms Sumita Hazarika, M/s Suresh A. Shroff & Co., S. Prasad, M/s Khaitan & Co., Ms Pragati Neekhra, Naresh K. Sharma, R. Nedumaran, K.K. Mani, Ms Srikala Gurukrishna Kumar, S. Srinivasan, Prashant Kumar, L.K. Pandey, Shiv Prakash Pandey, Ms Sangeeta Kumar, Nikhil Nayyar, V. Ramasubramanian, Pratap Venugopal, Ms Namrata Sood (for M/s K.J. John & Co.), R. Ayyam Perumal, Ms Prabha Swami, M.A. Chinnasamy, C.N. Sreekumar, Naveen R. Nath, Ms Revathy Raghavan, L.C. Agrawala and Ashwani Bhardwaj, Advocates] for the appearing parties.

The Order of the Court was delivered by

K.S.P. RADHAKRISHNAN, J.— IAs Nos. 12-13 of 2011 are allowed. SLPs (C) Nos. 12498-99 of 2010 be detagged and be listed after two weeks.

2. The Department of Mines and Geology, Government of Haryana issued an auction notice dated 3-6-2011 proposing to auction the extraction of minor minerals, boulders, gravel and sand quarries of an area not exceeding 4.5 ha in each case in the district of Panchkula, auction notices

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dated 8-8-2011 in the districts of Panchkula, Ambala and Yamuna Nagar exceeding 5 ha and above, quarrying minor mineral, road metal and masonry stone mines in the district of Bhiwani, stone and sand mines in the district of Mohindergarh, slate stone mines in the district of Rewari, and also in the districts of Kurukshetra, Karnal, Faridabad and Palwal, with certain restrictions for quarrying in the riverbeds of Yamuna, Tangri, Markanda, Ghaggar, Krishnavati River basin, Dohan River basin, etc. The validity of those auction notices is under challenge before us, apart from the complaint of illegal mining going on in the States of Rajasthan and Uttar Pradesh.

3. When the matter came up for hearing on 25-11-2011, we passed an order directing the CEC to make a local inspection with intimation to MoEF, the States of U.P., Rajasthan and Haryana with regard to the alleged illegal mining going on in the States of Uttar Pradesh, Rajasthan and also with regard to the areas identified for mining in the State of Haryana and submit a report. We also directed the CEC to examine whether there has been an attempt to flout EIA Notification dated 14-9-2006 by breaking the homogeneous area into pieces of less than 5 ha. CEC was also directed to examine whether the activities going on in that area have any adverse environmental impact.

4. CEC, in response to our order, submitted a detailed report on 4-1-2012. However, the report is silent with regard to the disturbing trend of serious illegal and unrestricted upstream, instream and flood plain sand mining activities and the prevailing degree of degradation of the sites and the environment, especially on the riverbeds mentioned earlier. The report of CEC however states that the auction notice also refers to mining leases of less than 5 ha and hence no environmental clearance need be obtained as per the MoEF Notification dated 14-9-2006. No light is also thrown on the question whether there has been, in fact, an attempt to flout the Notification dated 14-9-2006 by breaking the homogeneous area into pieces of less than 5 ha and the possible environmental or ecological impact on quarrying of minor minerals.

5. Mr Patwalia, learned Senior Counsel appearing for the petitioners, submitted that the CEC report is silent about those aspects and also whether 1 km distance has been maintained between the mining blocks of less than 5 ha. The learned counsel also submitted that mining areas earmarked are at the foothills of fragile Himalayan ranges known as Shivalik Hills, which are spread over the districts of Panchkula, Ambala and Yamuna Nagar and the illegal and excessive mining has caused serious environmental degradation and ecological impact, and no environmental impact assessment has ever taken place in areas earmarked for mining especially on the riverbeds.

6. Shri Gopal Subramaniam, learned Senior Counsel appearing for the State of Haryana, submitted that the State has taken adequate and effective precautions to maintain 1 km separation between mining blocks of less than 5 ha each and that the auction notice dated 3-6-2011 itself has imposed strict restrictions on quarrying in the riverbeds so also the auction notice dated

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8-8-2011. Further, it was pointed out that the Notification dated 14-9-2006 would not apply for quarrying minor minerals from areas of less than 5 ha and therefore, no environmental impact assessment needs to be undertaken either at the instance of the State Government or the project proponent. a

7. Shri Mohan Jain, learned Additional Solicitor General, appearing for MoEF submitted that the grant or allotment of mining licence/lease of smaller plots of less than five hectares should not be encouraged from the environmental point of view and that the applicability of EIA Notification of 2006, has to be seen in its letter and spirit so as to ensure environmental safeguards in place and implemented for sustainable mining. The learned counsel also assured, if environmental clearance is sought for covering a mining area of less than five hectares, the same shall be immediately attended to and necessary clearance would be granted in accordance with law. b

8. We have no materials before us to come to the conclusion that the removal of minor minerals, boulders, gravel, sand quarries, etc. covered by the auction notices dated 3-6-2011 and 8-8-2011, in the places notified therein and also in the riverbeds of Yamuna, Ghaggar, Tangri, Markanda, Krishnavati River basin, Dohan River basin, etc. would not cause environmental degradation or threat to the biodiversity, destroy riverine vegetation, cause erosion, pollute water sources, etc. Sand mining on either side of the rivers, upstream and instream, is one of the causes for environmental degradation and also a threat to the biodiversity. Over the years, India's rivers and riparian ecology have been badly affected by the alarming rate of unrestricted sand mining which damage the ecosystem of rivers and the safety of bridges, weakening of riverbeds, destruction of natural habitats of organisms living on the riverbeds, affects fish breeding and migration, spells disaster for the conservation of many bird species, increases saline water in the rivers, etc. c
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9. Extraction of alluvial material from within or near a streambed has a direct impact on the stream's physical habitat characteristics. These characteristics include bed elevation, substrate composition and stability, instream roughness elements, depth, velocity, turbidity, sediment transport, stream discharge and temperature. Altering these habitat characteristics can have deleterious impacts on both instream biota and the associated riparian habitat. The demand for sand continues to increase day by day as building and construction of new infrastructures and expansion of existing ones is continuous thereby placing immense pressure on the supply of the sand resource and hence mining activities are going on legally and illegally without any restrictions. Lack of proper planning and sand management cause disturbance of marine ecosystem and also upset the ability of natural marine processes to replenish the sand. f
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10. We are expressing our deep concern since we are faced with a situation where the auction notices dated 3-6-2011 and 8-8-2011 have permitted quarrying, mining and removal of sand from instream and upstream of several rivers, which may have serious environmental impact on h

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ephemeral, seasonal and perennial rivers and riverbeds and sand extraction may have an adverse effect on biodiversity as well. Further, it may also lead to bed degradation and sedimentation having a negative effect on the aquatic life. The rivers mentioned in the auction notices are on the foothills of the fragile Shivalik Hills. Shivalik Hills are the source of rivers like Ghaggar, Tangri, Markanda, etc. River Ghaggar is a seasonal river which rises up in the outer Himalayas between Yamuna and Satluj and enters Haryana near Pinjore, District Panchkula, which passes through Ambala and Hissar and reaches Bikaner in Rajasthan. River Markanda is also a seasonal river like Ghaggar, which also originates from the lower Shivalik Hills and enters Haryana near Ambala. During monsoon, this stream swells up into a raging torrent, notorious for its devastating power, as also, River Yamuna.

11. We find that it is without conducting any study on the possible environmental impact on/in the riverbeds and elsewhere the auction notices have been issued. We are of the considered view that when we are faced with a situation where extraction of alluvial material within or near a riverbed has an impact on the river's physical habitat characteristics, like river stability, flood risk, environmental degradation, loss of habitat, decline in biodiversity, it is not an answer to say that the extraction is in blocks of less than 5 ha, separated by 1 km, because their collective impact may be significant, hence the necessity of a proper environmental assessment plan.

12. Possibly this may be the reason that in the affidavit filed by MoEF on 23-11-2011 along with Annexure 2, report, the following stand has been taken:

“The Ministry is of the opinion that where the mining area is homogenous, physically proximate and on identifiable piece of land of 5 ha or more, it should not be broken into smaller sizes to circumvent the EIA Notification, 2006 as the EIA Notification, 2006 is not applicable to the mining projects having lease area of less than 5 ha. The report of the Committee on Minor Minerals, under the Chairmanship of the Secretary (Environment & Forests) with representatives of various State Governments as members including the States of Haryana and Rajasthan recommended a minimum lease size of 5 ha for minor minerals for undertaking scientific mining for the purpose of integrating and addressing environmental concerns. Only in cases of isolated discontinued mineral deposits in less than 5 ha, such mining leases may be considered keeping in view the mineral conservation.”

13. Situations referred to earlier prevail not only in the State of Haryana but also in the neighbouring and other States of the country as well and those issues had come up for serious deliberations before the Government of India, on various occasions.

14. The Government of India was receiving various reports regarding the adverse impacts on riverbeds and groundwater due to quarrying/mining of minerals. The Mines and Minerals (Development and Regulation) Act, 1957 empowers the State Governments to make rules in respect of minor minerals.

It was noticed that proposals for mining of major minerals typically undergo environmental impact assessment and environmental clearance procedure, but due attention has not been given to environmental aspects of mining of minor minerals. Environmental Impact Assessment Notification of 1994 did not apply to the mining of minor minerals, noticing that minor minerals were brought under the ambit of the Environmental Impact Assessment Notification of 2006 and as per the said notification mining of minerals with a lease area of 5 ha and above require prior environmental clearance. a

15. MoEF's attention was drawn to several instances across the country regarding damage to lakes, riverbeds and groundwater leading to drying up of waterbeds and causing water scarcity on account of quarry/mining leases and mineral concessions granted under the Mineral Concession Rules framed by the State Governments under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957. MoEF noticed that less attention was given on environmental aspects of mining of minor minerals since the area was small, but it was noticed that the collective impact in a particular area over a period of time might be significant. Taking note of those aspects, MoEF constituted a Core Group under the Chairmanship of the Secretary (Environment & Forests) to look into the environmental aspects associated with mining of minor minerals, vide its Order dated 24-3-2009. b

16. The terms of reference to the Core Group were as under: c

(i) To consider the environmental aspects of mining of minor minerals (quarrying as well as riverbed mining) for their integration into the mining process. d

(ii) Specific safeguard measures required to minimise the likely adverse impacts of mining on environment with specific reference to impact on water bodies as well as groundwater so as to ensure sustainable mining. e

(iii) To evolve model guidelines so as to address mining as well as environmental concerns in a balanced manner for their adoption and implementation by all the mineral-producing States.

17. The Core Group held its first meeting on 7-7-2009 and discussed the impact that may be caused by quarrying/mining of minor minerals on riverbeds and groundwaters. It was noticed that individual mines of minor minerals being small in size may have insignificant impact, however, their collective impacts, taking into consideration various mines on a regional scale, is significantly adverse. It was, therefore, felt necessary to consider various aspects since appropriate guidelines have to be issued on the basis of the report of the Committee. The issues which were brought up for consideration were; (i) the need to relook the definition of minor mineral, (ii) minimum size of lease for adopting eco-friendly scientific mining practices, (iii) period of lease, (iv) cluster of mine approach for addressing and implementing EMP in case of small mines, (v) depth of mining to minimise adverse impact on hydrological regime, (vi) requirement of mine plan for minor minerals, similar to major minerals, and (vii) reclamation of mined out area, post mine land use, progressive mine closure plan, etc. f

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18. Comments and inputs from various States and experts were also invited so as to prepare a report for consideration of MoEF. Based on the discussion held and subsequent inputs received, a draft report was prepared and circulated to all members for their further inputs. The report was further discussed on 29-1-2010 for its finalisation. The observations/comments made during the meeting were incorporated in the report and it was again circulated to all members for their consideration. The report so circulated was ultimately finalised. The decision taken by MoEF affects generally the mining of minor minerals including the riverbed mining throughout the country.

19. For an easy reference, we may extract the issues and recommendations made by MoEF, which are as follows:

“4.0. Issues and recommendations

4.1. Definition of minor mineral

The term ‘minor mineral’ is defined in clause (e) of Section 3 of the MMDR Act, 1957 as:

‘3. (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;’

The term ‘ordinary sand’ used in clause (e) of Section 3 of the MMDR Act, 1957 has been further clarified in Rule 70 of the MCR, 1960 as:

‘70. **Sand not be treated as minor mineral when used for certain purpose.**—Sand shall not be treated as a minor mineral when used for any of the following purposes, namely:

- (i) purpose of refractory and manufacture of ceramic;
- (ii) metallurgical purposes;
- (iii) optical purposes;
- (iv) purposes of stowing in coal mines;
- (v) for manufacture of silvitrete cement;
- (vi) manufacture of sodium silicate; and
- (vii) for manufacture of pottery and glass.’

Additionally, the Central Government has declared the following minerals as minor minerals: (i) boulder, (ii) shingle, (iii) chalcedony pebbles used for ball mill purposes only, (iv) limeshell, kankar and limestone used in kilns for manufacture of lime used as building material, (v) murrum, (vi) brick-earth, (vii) fuller’s earth, (viii) bentonite, (ix) road metal, (x) reh-matti, (xi) slate and shale when used for building material, (xii) marble, (xiii) stone used for making household utensils, (xiv) quartzite and sandstone when used for purposes of building or for making road metal and household utensils, (xv) saltpetre and (xvi) ordinary earth (used for filling or levelling purposes in construction or embankments, roads, railways building).

It may thus be observed that minerals have been classified into major and minor minerals based on their end use rather than level of

production, level of mechanisation, export and import, etc. There do exist some minor mineral mines of silica sand and limestone where the scale of mechanisation and level of production is much higher than those of industrial mineral mines. Further, in terms of the economic cost and revenue, it has been estimated that the total value of minor minerals constitutes about 10% of the total value of mineral production whereas the value of non-metallic minerals comprises only 3%. It is, therefore, evident that the operation of mines of minor minerals need to be subject to some regulatory parameters as that of mines of major minerals.

Further, unlike India there does not exist any such system based on end usage in other countries for classifying minerals into major and minor categories. Thus, there is a need to relook at the definition of 'minor minerals' per se.

It is, therefore, recommended that the Ministry of Mines along with Indian Bureau of Mines, in consultation with the State Governments may re-examine the classification of minerals into major and minor categories so that the regulatory aspects and environment mitigation measures are appropriately integrated for ensuring sustainable and scientific mining with least impacts on environment.

4.2. Size of the mine lease

Area for grant of mine lease varies from State to State. Maximum area which can be held under one or more mine lease is 2590 ha or 25.90 sq miles in Jammu and Kashmir. Rajasthan prescribed a minimum limit of 1 ha for a lease. Maximum area prescribed for permit is 50 × 50 m. In most of the States area of permit is not specified in the Rules. It has recently been observed by the Punjab and Haryana High Court in its order dated 15-5-2009 that the State Government apparently granting short-term permits by dividing the mining area into small zones in effect avoids environmental norms.

There is, thus a need to bring uniformity in the extent of area to be granted for mine lease so as to ensure that eco-friendly scientific mining practices can be adopted. *It is recommended that the minimum size of mine lease should be 5 ha. Further, preparation of comprehensive mine plan for contiguous stretches of mineral deposits by the respective State Governments may also be encouraged. This may suitably be incorporated in the Mineral Concession Rules, 1960 by the Ministry of Mines.*

4.3. Period of mine lease

The period of lease varies from State to State depending on type of concessions, minerals and its end use. The minimum lease period is one year and maximum 30 years. Minerals like granite where huge investments are required, a period of 20 years is generally given with the provisions of renewal. Permits are generally granted for short periods which vary from one month to a maximum of one year. In States like Haryana, minor mineral leases are auctioned for a particular time period. Mining is considered to be capital intensive industry and considerable time is lost for developing the mine before it attains the status of fully developed mine. If the tenure of the mine lease is short, it would encourage the lessee to concentrate more on rapid exploitation of

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mineral without really undertaking adequate measures for reclamation and rehabilitation of mined out area, posing thereby a serious threat to the environment and health of the workers and public at large.

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There is thus, a need to bring uniformity in the period of lease. *It is recommended that a minimum period of mine lease should be 5 years, so that eco-friendly, scientific and sustainable mining practices are adopted. However, under exceptional circumstances arising due to judicial interventions, short-term mining leases/contracts could be granted to the State Agencies to meet the situation arising therefrom.*

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4.4. Cluster of mine approach for small-sized mines

Considering the nature of occurrence of minor mineral, economic condition of the lessee and the likely difficulties to be faced by Regulatory Authorities in monitoring the environmental impacts and implementation of necessary mitigation measures, *it may be desirable to adopt cluster approach in case of smaller mine leases being operated presently. Further, these clusters need be provided with processing/crusher zones for forward integration and minimising excessive pressure on road infrastructure. The respective State Governments/mine owners' associations may facilitate implementation of Environment Management Plans in such cluster of mines.*

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4.5. Requirement of mine plan for minor minerals

At present, most of the State Governments have not made it mandatory for preparation of mining plan in respect of minor minerals. In some States like Rajasthan, eco-friendly mining plans are prepared, which are approved by the State Mining Department. The eco-friendly mining plans so prepared, though conceptually welcome, are observed to be deficient and need to be made comprehensive in a manner as is being done for major minerals. Besides, the aspects of reclamation and rehabilitation of mined out areas, progressive mine closure plan, as in vogue for major minerals could be introduced for minor minerals as well.

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It is recommended that provision for preparation and approval of mine plan, as in the case of major minerals may appropriately be provided in the rules governing the mining of minor minerals by the respective State Governments. These should specifically include the provision for reclamation and rehabilitation of mined out area, progressive mine closure plan and post mine land use.

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4.6. Creation of separate corpus for reclamation/rehabilitation of mines of minor minerals

Mining of minor minerals, in our country, is by and large an unorganised sector and is practised in haphazard and unscientific manner. At times, the size of the leasehold is also too small to address the issue of reclamation and rehabilitation of mined out areas. It may, therefore, be desirable that before the concept of mine closure plan for minor minerals is adopted, the existing abandoned mines may be reclaimed and rehabilitated with the involvement of the State Government. *There is thus, a need to create a separate corpus, which may be utilised for reclamation and rehabilitation of mined out areas. The respective State Governments may work out a suitable mechanism*

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for creation of such corpus on the 'polluter pays' principle. An organisational structure may also need to be created for undertaking and monitoring these activities.

4.7. Depth of mining

Mining of minerals, whether major or minor have a direct bearing on the hydrological regime of the area. Besides affecting the availability of water as a resource, it also affects the quality of water through direct run of going into the surface water bodies and infiltration/leaching into groundwater. Further, groundwater withdrawal, dewatering of water from mine-pit and diversion of surface water may cause surface and subsurface hydrologic systems to dry up. An ideal situation would require that quarrying should be restricted to unsaturated zone only above the phreatic water table and should not intersect the groundwater table at any point of time. However, from the point of view of mineral conservation, it may not be desirable to impose blanket ban on mining operation below groundwater table.

It is, therefore, recommended that detailed hydrogeological report should be prepared in respect of any mining operation for minor minerals to be undertaken below groundwater table. Based on the findings of the study so undertaken and the comments/recommendations of the Central Groundwater Authority/State Groundwater Board, a decision regarding restriction on depth of mining for any area should be taken on case-to-case basis.

4.8. Uniform minor mineral concession rules

The economic value of the minor minerals excavated in the country is estimated to contribute to about 9% of the total value of the minerals whereas the non-metallic minerals contribute to about 2.8%. Keeping in view the large extent of mining of minor minerals and its significant potential to adversely affect the environment, it is recommended that model mineral concession rules may be framed for minor minerals as well and the minor minerals may be subjected to a simpler regulatory regime, which is, however, similar to major minerals regime.

4.9. Riverbed mining

4.9.1. Environment damage being caused by unregulated riverbed mining of sand, bazari and boulders is attracting considerable attention including in the courts. The following recommendations are therefore made for the riverbed mining:

(a) In the case of mining leases for riverbed sand mining, specific river stretches should be identified and mining permits/lease should be granted stretchwise, so that the requisite safeguard measures are duly implemented and are effectively monitored by the respective Regulatory Authorities.

(b) The depth of mining may be restricted to 3m/water level, whichever is less.

(c) For carrying out mining in proximity to any bridge and/or embankment, appropriate safety zone should be worked out on case-to-case basis, taking into account the structural parameters, locational aspects, flow rate, etc. and no mining should be carried out in the safety zone so worked out.

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5.0. Conclusion

a Mining of minor minerals, though individually, because of smaller size of mine leases is perceived to have lesser impact as compared to mining of major minerals. However, the activity as a whole is seen to have significant adverse impacts on environment. It is, therefore, necessary that the mining of minor minerals is subjected to simpler but strict regulatory regime and *carried out only under an approved framework of mining plan, which should provide for reclamation and rehabilitation of the mined out areas. Further, while granting mining leases by the respective State Governments location of any eco-fragile zone(s) within the impact zone of the proposed mining area, the linked rules/notifications governing such zones and the judicial pronouncements, if any, need be duly noted.* The Union Ministry of Mines along with the Indian Bureau of Mines and respective State Governments should therefore make necessary provisions in this regard under the Mines and Minerals (Development and Regulation) Act, 1957, Mineral Concession Rules, 1960 and adopt model guidelines to be followed by all States.” (emphasis supplied)

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d **20.** The Report clearly indicates that operation of mines of minor minerals needs to be subjected to strict regulatory parameters as that of mines of major minerals. It was also felt necessary to have a relook to the definition of “minor minerals” per se. The necessity of the preparation of “comprehensive mines plan” for contiguous stretches of mineral deposits by the respective State Governments may also be encouraged and the same be suitably incorporated in the Mineral Concession Rules, 1960 by the Ministry of Mines.

e **21.** Further, it was also recommended that the States, Union Territories would see that mining of minor minerals is subjected to simpler but strict regulatory regime and carried out only under an *approved framework of mining plan, which should provide for reclamation and rehabilitation* of mined out areas. Mining plan should take note of the level of production, level of mechanisation, type of machinery used in the mining of minor minerals, quantity of diesel consumption, the number of trees uprooted, export and import of mining minerals, environmental impact, restoration of flora and host of other matters referred to in the 2010 Rules. A proper framework has also to be evolved on cluster of mining of minor minerals for which there must be a *Regional Environmental Management Plan*. Another important decision taken was that while granting of mining leases by the respective State Governments, *location of any eco-fragile zone(s) within the impact zone* of the proposed mining area, the linked rules/notifications governing such zones and the judicial pronouncements, if any, need to be duly noted.

f

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h **22.** The Minister for (Environment and Forests) wrote DO Letter dated 1-6-2010 to all the Chief Ministers of the States to examine the Report and to issue necessary instructions for incorporating the recommendations made in the Report in the Mineral Concession Rules for mining of minor minerals

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under Section 15 of the Mines and Mineral (Development and Regulation) Act, 1957. Following are the key recommendations reiterated in the letter:

“(1) Minimum size of mine lease should be 5 ha. a

(2) Minimum period of mine lease should be 5 years.

(3) A cluster approach to mines should be taken in case of smaller mine leases operating currently.

(4) Mine plans should be made mandatory for minor minerals as well.

(5) A separate corpus should be created for reclamation and rehabilitation of mined out areas. b

(6) Hydrogeological reports should be prepared for mining proposed below groundwater table.

(7) For riverbed mining, leases should be granted stretchwise, depth may be restricted to 3m/water level, whichever is less, and safety zones should be worked out. c

(8) The present classification of minerals into major and minor categories should be re-examined by the Ministry of Mines in consultation with the States.”

23. The Ministry of Mines, Government of India sent Communication No. 296/7/2000/MRC dated 16-5-2011 called “Environmental Aspects of Quarrying and of Minor Minerals—Evolving of Model Guidelines” along with a draft model guidelines calling for inputs before 30-6-2011. Draft rules called Minor Minerals Conservation and Development Rules, 2010 were also put on the website. Further, it may be noted that Section 15(1-A)(i) of the Act specifies: d

“**15. (1-A)(i)** the manner in which rehabilitation of flora and other vegetation such as trees, shrubs and the like destroyed by reason of any quarrying or mining operations shall be made in the same area or in any other area [once] selected by the State Government (whether by way of reimbursement of the cost of rehabilitation or otherwise) by the person holding the quarrying or mining lease;” e

24. We are of the view that all State Governments/Union Territories have to give due weight to the abovementioned recommendations of MoEF which are made in consultation with all the State Governments and Union Territories. The Model Rules of 2010 issued by the Ministry of Mines are very vital from the environmental, ecological and biodiversity point of view and therefore the State Governments have to frame proper rules in accordance with the recommendations, under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957. f

25. Quarrying of river sand, it is true, is an important economic activity in the country with river sand forming a crucial raw material for the infrastructural development and for the construction industry but excessive instream sand and gravel mining causes the degradation of rivers. Instream mining lowers the stream bottom of rivers which may lead to bank erosion. Depletion of sand in the streambed and along coastal areas causes the g

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DEEPAK KUMAR v. STATE OF HARYANA (*Radhakrishnan, J.*) 641

a deepening of rivers which may result in destruction of aquatic and riparian habitats as well. Extraction of alluvial material as already mentioned from within or near a streambed has a direct impact on the stream's physical habitat characteristics.

b **26.** We are of the considered view that it is highly necessary to have an effective framework of mining plan which will take care of all environmental issues and also evolve a long-term rational and sustainable use of natural resource base and also the bio-assessment protocol. Sand mining, it may be noted, may have an adverse effect on biodiversity as loss of habitat caused by sand mining will affect various species, flora and fauna and it may also destabilise the soil structure of river banks and often leaves isolated islands. We find that, taking note of those technical, scientific and environmental matters, MoEF, Government of India, issued various recommendations in March 2010 followed by the Model Rules, 2010 framed by the Ministry of Mines which have to be given effect to, inculcating the spirit of Article 48-A and Article 51-A(g) read with Article 21 of the Constitution.

d **27.** The State of Haryana and various other States have not so far implemented the above recommendations of MoEF or the guidelines issued by the Ministry of Mines before issuing auction notices granting short-term permits by way of auction of minor minerals boulders, gravel, sand, etc., in the riverbeds and elsewhere of less than 5 ha. We, therefore, direct all the States, Union Territories, MoEF and the Ministry of Mines to give effect to the recommendations made by MoEF in its Report of March 2010 and the model guidelines framed by the Ministry of Mines, within a period of six months from today and submit their compliance reports.

e **28.** The Central Government also should take steps to bring into force the Minor Minerals Conservation and Development Rules, 2010 at the earliest. The State Governments and UTs also should take immediate steps to frame necessary rules under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 taking into consideration the recommendations of MoEF in its Report of March 2010 and model guidelines framed by the Ministry of Mines, Government of India. Communicate the copy of this order to MoEF, Secretary, Ministry of Mines, New Delhi; Ministry of Water Resources, Central Government Water Authority; the Chief Secretaries of the respective States and Union Territories, who would circulate this order to the Departments concerned.

g **29.** We, in the meanwhile, order that leases of minor minerals including their renewal for an area of less than five hectares be granted by the States/ Union Territories only after getting environmental clearance from MoEF. Ordered accordingly.

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ANNEXURE-V

महाराष्ट्र शासन

ANNEXURE - R-2

क्रमांक : गोखनि-१०/०८१२/प्र.क्र. ६१३/ख
महसूल व वन विभाग
हैद्राबाद हाऊस,
शिबीर कार्यालय नागपूर
दिनांक : १२.१२.२०१३

प्रति,

सर्व विभागीय आयुक्त
सर्व जिल्हाधिकारी.

विषय :- महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम,
२०१३ अनुसार कार्यवाही करण्याबाबत...

संदर्भ : शासन अधिसूचना समक्रमांक दि.१८ .०७.२०१३ व दि. २४.१०.२०१३

संदर्भाधीन दिनांक १८.७.२०१३ च्या शासन अधिसूचनेन्वये "महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३" प्रसिध्द करण्यात आले असून ते दिनांक २४.१०.२०१३ च्या अधिसूचनेन्वये राज्यात दिनांक २४.१०.२०१३ पासून लागू करण्यात आले आहेत. राज्यात पायाभूत सुविधा उभारण्यासाठी गौण खनिजांची आवश्यकता व पारंपारिक व्यावसायिकांच्या समोर रोजगार विषयक निर्माण झालेल्या अडचणी विचारात घेऊन नियमात विंशष्ट कालावधी व विंशष्ट क्षेत्रात विंशष्ट परिनागाइतकें गौण खनिजाचे उत्खनन करण्यास परवानगी देण्याचे अधिकार सक्षम प्राधिकार्यांना देण्यात आले आहेत. मात्र, असे परवाने देतांना राज्यस्तरीय पर्यावरण समितीकडून अनुमती आवश्यक आहे काय अशी पृच्छा काही क्षेत्रीय कार्यालयाकडून करण्यात आली होती.

२. "महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३" मधील प्रकरण ४ मध्ये परवान्यासाठी राज्यस्तरीय समितीकडून पर्यावरण अनुमती घेण्याबाबतची तरतूद नाही. तथापि, त्यादृष्टीने स्पष्टिकरण करण्यासाठी सदर बाब दिनांक १२.१२.२०१३ रोजी मंत्रिमंडळाच्या विचारार्थ सादर करण्यात आली होती. सदर बैठकीत मंत्रिमंडळाने घेतलेल्या निर्णयानुसार खालीलप्रमाणे स्पष्टिकरण करण्यात येत आहे :-

"महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३" मधील प्रकरण ४ अनुसार सक्षम प्राधिकार्यांनी तात्पुरते गौण खनिज उत्खनन परवाने देण्याची तरतूद करण्यात आली आहे. त्याप्रमाणे तात्पुरते गौण खनिज उत्खनन परवाने देण्याकरीता पर्यावरण अनुमतीची आवश्यकता राहणार नाही".

३. बरील स्पष्टिकरण वाळू / रेती उत्खननासाठी लागू होणार नाही. वाळू/रेती निर्गतीसाठी उक्त नियमाच्या प्रकरण ५ तसेच शासन निर्णय क्रमांक : गौखनि-१०/०५१२/प.क्र. ३००/ख, दिनांक १२.०३.२०१३ मधील तरतुदीनुसार पर्यावरण अनुमती घेणे अनिवार्य राहिल.

४. उक्त परवान्यांचे संनियंत्रण करण्यासाठी जिल्हास्तरावर जिल्हाधिकार्यांच्या अध्यक्षतेखाली समिती स्थापन करण्यात आली असून, त्यात महाराष्ट्र प्रदूषण नियंत्रण मंडळाचा जिल्हास्तरीय अधिकारी, उपवनसंरक्षक, धूजल सर्वेक्षण व विकास यंत्रणेचा जिल्हास्तरीय अधिकारी व जिल्हा खनिकर्म अधिकारी यांचा सामावेश करण्यात आला आहे. सदर समिती उक्त नियमातील तरतुदींचे काटेकोर पालन होत आहे, याबाबत आवश्यक काळजी घेणार आहे. तरी "महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३" अनुसार सक्षम प्राधिकार्याने गौण खनिज उत्खननाकरिता गौण खनिजाचे खाण परवाने देण्याची कार्यवाही विनाविलंब सुरू करावी.

मा. आ. गुडे

(मा. आ. गुडे)

उप सचिव

प्रत,

प्रधान सचिव, पर्यावरण विभाग, मंत्रालय, मुंबई-४०० ०३२.

मा. मंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई-४०० ०३२.

मा. राज्यमंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई-४०० ०३२.

Annexure-V A

GOVERNMENT OF MAHARASHTRA

No.GKN-10/0812/C.No.613/B
Revenue & Forest Department
Hyderabad House,
Camp Office, Nagpur.
Date:12.12.2013

To,

All Divisional Commissioners
All Collectors.

Subject: Regarding taking action as per Maharashtra Minor Mineral Excavation (Development & Regulation) Rules, 2013.

Ref: Government Notification Number Dt.18.07.2013 and dated 24.10.2013.

The Maharashtra Minor Mineral Excavation (Development & Regulation) Rules, 2013, have been promulgated by the Government Notification dated 18.07.2013 with reference to 24.10.2013 and it has been implemented in the State from 24.10.2013 by the Notification dated 24.10.2013. Looking at the need for secondary mineral for setting up infrastructure in the State and the employment difficulties faced by the traditional traders, the authority has been given to the competent

authorities to allow the extraction of secondary minerals for a specific period and in certain areas. However, some Regional office had asked whether permission from the State Level Environment Committee was required for issuing such permits.

2. Chapter 4 of Maharashtra Minor Mineral Excavation (Development & Regulation) Rules, 2013, does not provide for obtaining environmental clearance from the State Level Committee for Licensing. As per the decision taken, the following explanation is being given:-

"As per the Maharashtra Minor Mineral Excavation (Development & Regulation) Rules, 2013, Chapter- 4 provision has been made to issue temporary minor mineral extraction licenses by the competent authority. Accordingly temporary environmental permits will not be required for issuance of environmental permits."

3. The above explanation does not apply to sand mining. Case No.5 of the said Rules as well as Government Resolution No. Gokhani/ 10/ 0512/ C.No.300/B, dated

12.03.2013, it will be mandatory to obtain environmental permit.

4. A Committee has been set up at the District level under the Chairmanship of the District Collector to monitor the said licenses. The committee will take necessary care to ensure that the provisions of the said Rules are being strictly followed. However, as per the Maharashtra Minor Mineral Excavation (Development & Regulation) Rules, 2013, the competent authority should immediately start the process of dispatching secondary minerals for secondary mining.

Sd/-
(M.A. Gutte)
Dy. Secretary

Copy to:

Chief Secretary, Environment Department, Mantralaya
Mumbai-400032.

Personal Secretary to Hon'ble Minister (Revenue),
Mantralaya, Mumbai-400032.

Personal Secretary to Hon'ble State Minister (Revenue)
Mantralaya, Mumbai-400032.



गौण खनिजाच्या उत्खनन व
वाहतूकीस परवानगी देण्याबाबत
करावयाची कार्यवाही.

महाराष्ट्र शासन

महसूल व वन विभाग

शासन परिपत्रक क्रमांक: गौखनि १०/०३१६/प्र.क्र.२०४/ख

हुतात्मा राजगुरु चौक, मादाम कामा मार्ग,

मंत्रालय, मुंबई - ४०० ०३२

तारीख: १४/०६/२०१७

- वाचा :** (१) महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३
(२) शासन निर्णय, महसूल व वन विभाग क्र. गौखनि १०/०५१२/प्र.क्र. ३००/ख,
दि. १२ मार्च, २०१३
(३) केंद्र शासन, पर्यावरण, वने व वातावरणीय बदल मंत्रालय अधिसूचना क्र.:एस
ओ.१४१(E), दिनांक १५ जानेवारी, २०१६
(४) शासन पत्र महसूल व वन विभाग क्र.: गौखनि १०/०२१६/प्र.क्र. १५८/ख,
दि. २४ फेब्रुवारी, २०१६ व दिनांक २२ मार्च, २०१६

-: शासन परिपत्रक :-

संदर्भाधिन क्रमांक १ येथील महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३ अन्वये गौण खनिजाच्या उत्खनन व वाहतूकीस परवानगी देण्याबाबत अनुसरावयाची कार्यपध्दती विहित करण्यात आलेली आहे. तसेच संदर्भाधीन क्रमांक २ येथील शासन निर्णयान्वये वाळू निर्गतीकरीता अनुसरावयाची कार्यपध्दती शासनाने विहित केलेली आहे. तथापि, गौण खनिजाचे उत्खनन व वाहतूकीबाबत संबंधित कायद्यातील तरतूदीची प्रभावी अंमलबजावणी होत नसल्याबाबत लोकप्रतिनिधी, जनता व प्रसारमाध्यामांतून मोठ्या प्रमाणावर राज्य शासनाकडे तक्रारी प्राप्त होत आहेत. त्याअनुषंगाने गौण खनिजाच्या उत्खनन व वाहतूकीस परवानगी देण्यासंबंधी साकल्याने विचार केल्यानंतर खालीलप्रमाणे कार्यवाही करण्याचे निर्देश या शासन परिपत्रकान्वये देण्यात येत आहेत :-

- (i) महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३ मधील नियम २
(ज) नुसार गौण खनिजांचे उत्खनन व वाहतूकीसाठी परवाना देण्याचे अधिकार, तहसीलदार यांना ५०० ब्रास पर्यंत, उपविभागीय अधिकारी यांना ५०१ ते २,००० ब्रासपर्यंत व जिल्हाधिकारी यांना २,००१ ते २५,००० ब्रासपर्यंत, प्रदान करण्यात आलेले आहेत. उक्त नियमामधील नियम ५८ मध्ये जिल्हा खाणकाम योजना तयार करण्यासाठी जिल्हाधिकारी

यांच्या अध्यक्षतेखाली समिती गठित करण्यात आली आहे. सदर खाणकाम योजनेस जिल्हास्तरीय पर्यावरण परिणाम व्यवस्थापन प्राधिकरणाने मान्यता दिल्यानंतर, प्रकरणपरत्वे गौण खनिज उत्खननाचे परवाने देण्याविषयी निर्णय संबंधित सक्षम प्राधिकाऱ्यांच्या स्तरावर विनाविलंब घेण्यात यावेत. सदर परवाना देण्यासाठी परत जिल्हास्तरीय पर्यावरण परिणाम व्यवस्थापन प्राधिकरणाची (District Environment Impact Assessment Authority) मान्यता घेण्याची आवश्यकता नाही.

(ii) उक्त नियमामधील नियम ६५ मध्ये सक्षम अधिकारी अर्ज प्राप्त झाल्यावर, आवश्यक त्या कागदपत्रांची पडताळणी केल्यानंतर असा अर्ज मिळाल्यापासून ३० दिवसांच्या कालावधीत, त्याला योग्य वाटेल त्याप्रमाणे परवाना देईल किंवा त्यास नकार देईल अशी तरतूद करण्यात आली आहे. उक्त विहित कालावधीत अशा प्रकरणी न चुकता निर्णय घेण्याची दक्षता घेण्यात यावी.

(iii) संबंधित परवानाधारक यांनी गौण खनिज उत्खननाच्या परवान्याची मुदत किंवा त्याअंतर्गत मंजूर परिमाण संपण्यापूर्वी किमान ३० दिवस आधी सक्षम प्राधिकाऱ्याकडे अर्ज करणे बंधनकारक असेल. वरीलप्रमाणे विहित मुदतीत अर्ज केल्यावरही संबंधित सक्षम प्राधिकारी यांनी सदर अर्जावर पूर्वीच्या परवान्याची मुदत संपल्यानंतर किंवा मंजूर परिमाणाचे उत्खनन संपल्यानंतर नवीन परवाना देण्याचा निर्णय घेतल्यास, पूर्वीच्या परवान्याचा कालावधी संपुष्टात आल्यापासून किंवा पूर्वीच्या परवान्यातील मंजूर परिमाणाचे उत्खनन संपल्याच्या दिनांकापासून नवीन परवाना मंजूर होईपर्यंतचा कालावधी परवान्याच्या कालावधीत धरण्यात यावा व या कालावधीत परवानाधारकाने केलेले उत्खनन अवैध समजण्यात येऊ नये व त्यावर दंडात्मक कारवाई न करता अनुज्ञेय स्वामित्वधन व इतर शुल्काची वसूली करण्यात यावी.

(iv) वाळू उत्खननाबाबत तसेच नदीपात्रातून उत्खननाबाबत केंद्र शासनाच्या पर्यावरण, वने व वातावरणीय बदल मंत्रालयाच्या अधिसूचना क्र.: का.आ. १४१ (अ) दि. १५.०१.२०१६ मधील परिशिष्ट-१२ मध्ये विहित केल्यानुसार संनियंत्रणाची प्रक्रिया राबविण्यात यावी. तथापि, सदर परिशिष्ट इतर गौण खनिजे जसे की मुरुम, माती, काळा दगड व जांभा दगड इत्यादीबाबत लागू नाही याची कृपया नोंद घ्यावी.

२. सदर शासन परिपत्रक महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आले असून त्याचा संकेतांक २०१७०६१३१७५३०७८८१९ असा आहे. सदर शासन परिपत्रक डिजीटल स्वाक्षरीने साक्षांकित करून काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

(राजेंद क्षीरसागर)
शासनाचे उप सचिव

प्रत,

- १) मा.राज्यपाल यांचे सचिव, राजभवन, मलबार हिल, मुंबई. (पत्राने)
- २) मा.मुख्यमंत्री महाराष्ट्र राज्य यांचे अपर मुख्य सचिव, मंत्रालय, मुंबई.
- ३) मा.मंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई.
- ४) मा.राज्यमंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई.
- ५) सर्व मा.मंत्री व सर्व मा.राज्यमंत्री यांचे खाजगी सचिव, मंत्रालय, मुंबई.
- ६) मा.मुख्य सचिव, महाराष्ट्र राज्य, मंत्रालय, मुंबई.
- ७) सर्व मंत्रालयीन विभाग.
- ८) प्रधान मुख्य वन संरक्षक, नागपूर
- ९) सर्व विभागीय आयुक्त.
- १०) मुख्य कार्यकारी अधिकारी, महाराष्ट्र मेरीटाईम बोर्ड, बेलार्ड इस्टेट, मुंबई-४०० ००१

- ११) सर्व जिल्हाधिकारी.
- १२) संचालक, भूविज्ञान व खनिकर्म संचालनालय, नागपूर.
- १३) सर्व उपविभागीय अधिकारी.
- १४) सर्व तहसिलदार.
- १५) महालेखापाल-१, महाराष्ट्र राज्य (लेखा व अनुज्ञेयता), (लेखापरिक्षा), मुंबई.
- १६) महालेखापाल-२, महाराष्ट्र राज्य (लेखा व अनुज्ञेयता), (लेखापरिक्षा), नागपूर.
- १७) सर्व कार्यासन, महसूल व वन विभाग, मंत्रालय, मुंबई-४०० ०३२.
- १८) निवडनस्ती "ख" कार्यासन, महसूल व वन विभाग, मंत्रालय, मुंबई ४०० ०३२.



ANNEXURE - R-4**MAHARASHTRA POLLUTION CONTROL BOARD**

Phone:24010437/24020781
24045589/24037124/24035273
Fax: 24024068 /24023516



Kalpataru Point, 3rd & 4th floor,
Sion, Matunga Scheme Road No. 8,
Opp. Cine Planet Cinema,
Near Sion Circle, Sion (E)
Mumbai - 400 022.

No. BO/JD(APC) /TB-3/B- 1245

Date: 24/03/2017

CIRCULAR

Sub: Policy for grant of Consents to Stone Quarries in the State of Maharashtra.

- Ref:** 1) Revised Classification of Industrial Sectors published by Central Pollution Control Board dated 07/03/2016.
- 2) Minutes of Consent Committee Meeting of the MPC Board dated 16/06/2016.
- 3) Minutes of Consent Appraisal Committee Meeting of the MPC Board dated 10/10/2016.

.....

The Central Pollution Control Board has issued modified directions u/s 18(1)(b) of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 on 07/03/2016 regarding harmonization of classifications of industrial sectors under Red / Orange / Green / White categories. The stone quarrying activity does not covered in this classification of the industries.

The Maharashtra Pollution Control Board has received various applications for grant of Consent to stone quarrying activities. In order to ascertain the category of the stone quarry activity and to cover this activity under the consent management of the Board, this matter was discussed in the Consent Committee meeting of the Board held on 16/06/2016 and Consent Appraisal Committee meeting of the Board held on 10/10/2016. In these meetings, the following decisions were taken for grant Consent to Establish/Operate to the stone quarry activity:

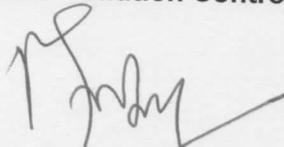
Circular - Page No:2

- I. Stone quarry having area 5 Hector and above are covered under the Consent regime.
- II. Stone quarry having area below 5 Hector will comes under the purview of the District Collector/s in the State of Maharashtra, as per their jurisdiction and they will implement the Guidelines for Environmentally Sound Operations for Stone Quarries issued by the Maharashtra Pollution Control Board.
- III. The stone quarry activity is not allowed in the eco sensitive area declared by the Government of India/Government of Maharashtra/and any other Government competent authority.

The District Collector shall strictly implement & impose the said guidelines at the time of granting permission to the stone quarrying activities below 5 Hectors. They shall also ensure that the stone quarries having area 5 Hector and above shall obtain valid consent to establish/operate from the Maharashtra Pollution Control Board within next 30 days from the date of issuance of this circular.

These Guidelines are come into force with an immediate effect from the date of issuance of this circular and all the District Collectors in the State of Maharashtra are hereby directed to implement the above guidelines. In addition, it is directed to all concerns to implement the above Guidelines within 30 days from the date of issue of this circular.

For & behalf of the
Maharashtra Pollution Control Board,


(Dr. P. Anbalagan, IAS)
Member Secretary

D.A.: Guidelines for Stone Quarry.

Copy submitted for information to:

- Hon'ble Additional Chief Secretary (Environment), Govt. of Maharashtra, Mantralaya, Mumbai
- And Hon'ble Chairman, M.P.C. Board, Mumbai.

Circular - Page No:3

Copy for Information and implementation to:

- The All Divisional Commissioner, State of Maharashtra.
- The All District Collectors, State of Maharashtra.
- Directorate of Geology and Mining, GoM, Civil Line, Nagpur.
- The All District Mining Officer, State of Maharashtra.

D.A.: Guidelines for Stone Quarry.

Copy to:

- Principal Scientific Officer / Assistant Secretary (Technical)/Joint Director (Air Pollution Control)/Joint Director (Water Pollution Control) /RO (HQ)/ RO (Cess), M.P.C. Board, Sion, Mumbai-400022.

Copy for information and necessary action to:

1. **The all Regional Officers/ Sub Regional Officer, M.P.C. Board** -They are directed to serve the copy of the said circular along with Guidelines for Environmentally Sound Operations for Stone Quarries to the concerned District Collectors in the State of Maharashtra as per their jurisdiction.

-----XXXXX-----

GUIDELINES
FOR
ENVIRONMENTALLY SOUND
OPERATIONS FOR STONE QUARRIES



MAHARASHTRA POLLUTION CONTROL BOARD
KALPTARU POINT, SION (E),
MUMBAI- 400 022

DECEMBER 2006

5. Natural gradient of slope should be maintained during quarrying operations, slope of the footwall side (Slope in the direction in which mining does not exist) should be properly stabilized by planting adequate number of trees of suitable species in consultation with local Forests Department so as to have soil binding vegetation
6. In the case of murrum, the entire weathered soil or murrum shall not be excavated leading to exposure of hard rock, instead, a capping or at least half a meter layer of murrum shall be left so that it can support vegetation and plantation that will be done later on.
7. Water course, if any, from a higher slope, should be properly diverted out of quarry and shall be safely channeled out of any nearby human settlement.
8. During quarrying operations, the water should be sprayed at least once in a day over the roads at the quarry sites and nearby areas.
9. Kachha road, used for transportation of murrum, from the quarry site shall be invariably sprayed by water during these operations. In order to minimize dust pollution, measures such as adoption of hoods at transfer points, vulcanizing of conveyer belt joints, under belt cleaning devices, and installation of dust suppressions and/or dust extraction system for conveyance shall be adopted.
10. The kachha road leading to the quarry shall have avenue plantation on to arrest the dust pollution.
11. No blasting shall be permitted if a public road, railway line or any human settlement is located within 500 meters from the quarrying site.
12. Residences for laborers and related temporary structures should be constructed at least 500 meters away from the place of blasting as well as from the place of quarrying. Heavy blasting using the heavy machinery shall be prohibited.
13. The Development Permission for quarrying shall be granted for a specific period, after which fresh permission for further quarrying will be necessary. In granting such fresh permission, the Planning Authority/ District Collector/ Sub- Divisional Officer/ Tehsildar shall review the performance of the quarry operator in implementing the approved excavation and restoration plans, air pollution control measures undertaken and adherence of these guidelines while carrying out the quarrying operations

SPECIFIC GUIDELINES FOR SOURCEWISE POLLUTION CONTROL MEASURES TO BE FOLLOWED FOR STONE QUARRIES.

AIR POLLUTION

DRILLING :

- 1) Drilling machine shall be fitted with dust suppression, collection and disposal arrangement.
- 2) Deep wetting of drilling zones shall be done by water sprinkling before starting drilling.
- 3) During the drilling operations the efforts shall be made to reduce dust generation by taking appropriate measures

BLASTING

- 1) Proper blasting whole geometry shall be designed.
- 2) Blast site shall be wetted before and after blasting operations are completed.
- 3) Only optimum quantity of permissible explosives shall be used so that the vibrations do not damage the structures/houses if the quarrying operations are close to human habitation.
- 4) Blasting shall be conducted only during favorable weather conditions and only during the day time and permissible hours.
- 5) The blasting operations shall be given publicity in the local area through Davandi and other available media so that local people become aware of the blasting activities being undertaken in the area.
- 6) The vibrations should be monitored periodically in consultation with the local Mining authorities.
- 7) The storage of the explosives and its transfer to and from the quarry area shall be strictly in accordance with the conditions listed in the permission granted by Explosives Department

Heavy Earth moving Machinery(HEMM):

- 1) The operator/ transporter shall carry out regular maintenance of the machinery and vehicles.
- 2) The speed limit shall be adhered to.

- 3) Operator's cabin of the HEMMs should preferably be air conditioned at least air tight.
- 4) The smoke emission should conform to the standards notified in Motor Vehicle Act.
- 5) The trucks carrying the mined products shall be covered with tarpaulin so that there are no fugitive emissions during transportation.
- 6) The transportation should not through the busy roads in the city/towns/villages if by pass roads are available

HAUL ROADS :

- 1) All the haul and service roads shall be mettled and well maintained.
- 2) Unmettled haul roads shall be free of ruts and pot holes.
- 3) All haul roads and surface roads shall be regularly sprayed with water.
- 4) Plantation alongside haul roads (avenue plantation) shall be carried out done.
- 5) Mined material receiving pits are shall be located close to the quarry to reduce the haul length of the dumper

OVERBURDEN :

- 1) Non-operative dumps shall be subjected to technical and biological reclamation.
- 2) Plantation over and around over burden dumps shall be carried out to ensure stability of slopes, prevention of dust by wind action and soil erosion during the run off.
- 3) Wetting of surface of O. B. dump shall be regularly practiced.

NOISE POLLUTION

BLASTING :

- 1) Blast holes shall be judiciously charged.
- 2) No blasting shall be done when there is low cloud ceiling.

- 3) Millie second delayed detonation to be used.
- 4) All other guidelines of the Explosives department and Mining Department regarding blasting operations shall be strictly adhered to.

DRILLING :

- 1) The workers shall be provided appropriate personal protective equipment viz. ear mufflers/ ear plug or noise proof cabins

Heavy Earth moving Machinery (HEMM) :

- 1) The engine exhausts of HWMM to be fitted with mufflers and cabins shall be noise proof.
- 2) HEMM shall be properly maintained.
- 3) Operators shall be provided with ear mufflers / ear plugs.
- 4) Imposition of speed restriction of HEMM near residential area shall be enforced.
- 5) The haulage path of the HEMM shall be re-routed so that it is away from the residential area.

WATER POLLUTION

SURFACE:

- 1) Garland drain around quarry excavations shall be constructed.
- 2) OBD tops shall be dressed in to a shallow saucer shape
- 3) Contour drains along slope of OBD dumps shall be constructed.
- 4) OBD run offs shall be desilted through settling tanks before discharge in to natural streams, lakes or any other water body.

WORKSHOP:

- 1) Effluent coming out of workshop shall be treated in a plant containing and Oil/ grease trap (if required) and sedimentation tank. The treated water shall be stored and reused in the workshop itself as far as possible. The treated waste water shall not find its way to the streams, lakes or any other water bodies

WORK ENVIRONMENT:

Statutory Regulations and guidelines of the Director General of Mines Safety and Department of Explosives shall be strictly followed.



MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 28th March, 2020

S.O. 1224(E).—WHEREAS, *vide* the Mineral Laws (Amendment) Act, 2020 (2 of 2020), the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) (hereinafter referred to as MMDR Act) has been amended with effect from the 10th day of January, 2020 and, *inter alia*, new section 8B relating to the provisions for transfer of statutory clearances has been inserted;

AND WHEREAS, sub-section (2) of section 8B of the MMDR Act provides that notwithstanding anything contained in this Act or any other law for the time being in force, the successful bidder of mining leases expiring under the provisions of sub-sections (5) and (6) of section 8A and selected through auction as per the procedure provided under this Act and the rules made thereunder, shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like vested with the previous lessee for a period of two years;

AND WHEREAS, sub-section (3) of section 8B of the MMDR Act provides that notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the new lessee to continue mining operations on the land, in which mining operations were being carried out by the previous lessee, for a period of two years from the date of commencement of the new lease;

AND WHEREAS, in pursuance of the aforesaid amendment to the MMDR Act, the Central Government deems it necessary to align the relevant provisions of the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1533 (E), dated the 14th September, 2006 (hereinafter referred to as the EIA Notification, 2006);

AND WHEREAS, the Ministry of Environment, Forest and Climate Change is in the receipt of representations for waiver of requirement of prior environmental clearance for borrowing of ordinary earth for roads; and manual extraction of lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government, after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of the rule 5 of the said rules, in public interest, and in supersession of the notification number S.O. 4307(E), dated the 29th November, 2019, hereby makes the following further amendments in the EIA Notification, 2006, namely:-

In the said notification,-

(i) in paragraph 11, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:-

“(3) The successful bidder of the mining leases, expiring under the provisions of sub-sections (5) and (6) of section 8A of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and selected through auction as per the procedure provided under that Act and the rules made thereunder, shall be deemed to have acquired valid prior environmental clearance vested with the previous lessee for a period of two years, from the date of commencement of new lease and it shall be lawful for the new lessee to continue mining operations as per the same terms and conditions of environmental clearance granted to the previous lessee on the said lease area for a period of two years from the date of commencement of new lease or till the new lessee obtains a fresh environmental clearance with the terms and conditions mentioned therein, whichever is earlier:

Provided that the successful bidder shall apply and obtain prior environmental clearance from the regulatory authority within a period of two years from the date of grant of new lease.”;

(ii) in the Schedule, against the item 1(a), in the column (5), after clause (2) of the Note, the following clause shall be inserted, namely:-

“(3) The evacuation or removal and transportation of already mined out material lying within the mining leases expiring under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), by the previous lessee, after the expiry of the said lease, shall not form the part of the mining capacity so permitted to the successful bidder, selected through auction as per the procedure provided under that Act and the rules made thereunder.”;

(iii) for Appendix-IX, the following Appendix shall be substituted, namely:-

“APPENDIX-IX

EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE

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

1. Extraction of ordinary clay or sand by manual mining, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.
2. Extraction of ordinary clay or sand by manual mining, by earthen tile makers who prepare earthen tiles.
3. Removal of sand deposits on agricultural field after flood by farmers.
4. Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.
5. Community works, like, de-silting of village ponds or tanks, construction of village roads, ponds or bunds undertaken in Mahatma Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes and community efforts.
6. Extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc.
7. Dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management.
8. Traditional occupational work of sand by Vanjara and Oads in Gujarat vide notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.
9. Manual extraction of lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community.
10. Digging of wells for irrigation or drinking water purpose.
11. Digging of foundation for buildings, not requiring prior environmental clearance, as the case may be.
12. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nallah, drain, water body, etc., to deal with any disaster or flood like situation upon orders of the District Collector or District Magistrate or any other Competent Authority.
13. Activities declared by the State Government under legislations or rules as non-mining activity.”

[F. No. Z-11013/47/2018-IA.II (M)]

GEETA MENON, Jt. Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) *vide* number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended *vide* the following numbers:-

1. S.O. 1949 (E), dated the 13th November, 2006;
2. S.O. 1737 (E), dated the 11th October, 2007;
3. S.O. 3067 (E), dated the 1st December, 2009;
4. S.O. 695 (E), dated the 4th April, 2011;
5. S.O. 156 (E), dated the 25th January, 2012;
6. S.O. 2896 (E), dated the 13th December, 2012;
7. S.O. 674 (E), dated the 13th March, 2013;
8. S.O. 2204 (E), dated the 19th July, 2013;
9. S.O. 2555 (E), dated the 21st August, 2013;
10. S.O. 2559 (E), dated the 22nd August, 2013;
11. S.O. 2731 (E), dated the 9th September, 2013;
12. S.O. 562 (E), dated the 26th February, 2014;
13. S.O. 637 (E), dated the 28th February, 2014;

14. S.O. 1599 (E), dated the 25th June, 2014;
15. S.O. 2601 (E), dated the 7th October, 2014;
16. S.O. 2600 (E), dated the 9th October, 2014;
17. S.O. 3252 (E), dated the 22nd December, 2014;
18. S.O. 382 (E), dated the 3rd February, 2015;
19. S.O. 811 (E), dated the 23rd March, 2015;
20. S.O. 996 (E), dated the 10th April, 2015;
21. S.O. 1142 (E), dated the 17th April, 2015;
22. S.O. 1141 (E), dated the 29th April, 2015;
23. S.O. 1834 (E), dated the 6th July, 2015;
24. S.O. 2571 (E), dated the 31st August, 2015;
25. S.O. 2572 (E), dated the 14th September, 2015;
26. S.O. 141 (E), dated the 15th January, 2016;
27. S.O. 648 (E), dated the 3rd March, 2016;
28. S.O. 2269(E), dated the 1st July, 2016;
29. S.O. 2944(E), dated the 14th September, 2016;
30. S.O. 3518 (E), dated 23rd November 2016;
31. S.O. 3999 (E), dated the 9th December, 2016;
32. S.O. 4241(E), dated the 30th December, 2016;
33. S.O. 3611(E), dated the 25th July, 2018;
34. S.O. 3977 (E), dated the 14th August, 2018;
35. S.O. 5733 (E), dated the 14th November, 2018;
36. S.O. 5736 (E), dated the 15th November, 2018;
37. S.O. 5845(E), dated the 26th November, 2018;
38. S.O. 345(E), dated the 17th January, 2019;
39. S.O. 1960(E), dated the 13th June, 2019;
40. S.O. 236(E), dated the 16th January, 2020;
41. S.O. 751(E), dated the 17th February, 2020; and
42. S.O. 1223(E), dated the 27th March, 2020.



MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 20th April, 2022

S.O. 1886(E).—WHEREAS, the Central Government in the erstwhile Ministry of Environment and Forests, in exercise of its powers under sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 has published the Environment Impact Assessment Notification, 2006 (hereinafter referred to as the EIA Notification, 2006), vide number S.O.1533 (E), dated the 14th September, 2006 for mandating prior environmental clearance for certain category of projects;

And whereas, the State Environment Impact Assessment Authorities (SEIAAs) have been constituted under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 for implementation of the EIA Notification, 2006 at State level for exercising delegated powers to consider and grant Environmental Clearance (EC) for all proposals under Category B;

And whereas, the SEIAAs have gained substantial experience over the past fifteen years in the EC appraisal process and the process at the State level has also been made completely online through the PARIVESH portal for efficient and transparent disposal of EC proposals;

And whereas, the Central Government deems it necessary to further decentralise the EC process for facilitating clearances at State level;

And whereas, as on date, category 'B' projects, relating to national defence and strategic importance with significant element of security involvement are also being appraised at the State level which, the Central Government deems it necessary to be appraised centrally taking into account national security concerns;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule(4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government, after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of rule 5 of the said rules, in public interest, hereby makes the following further amendments in the notification of the Government of India, in the erstwhile Ministry of Environment and Forests, number S.O. 1533 (E), dated the 14th September, 2006, namely:-

In the said notification,-

(1) in paragraph 4, for sub-paragraph (iii a), the following shall be substituted, namely:-

(iii a) Such Category 'B' projects, relating to the National defence or strategic or security importance or those as notified by the Central Government on account of exigencies such as pandemics, natural disasters or to promote environmentally friendly activities under National Programmes or Schemes or Missions or such projects which are inordinately delayed beyond the stipulated timeline as laid down in this notification and also meet the criteria as laid down in this regard from time to time, shall be considered at the Central level as Category 'B' projects;

(2) in the Schedule,-

(i) against item 1(a),-

(a) in column (3),-

(A) for ">100 ha. of mining lease area in respect of non-coal mining lease", the following shall be substituted, namely:-

">250 ha mining lease area in respect of major mineral mining lease other than coal";

(B) for the symbol, figures and letters "> 150 ha", the symbol, figures and letters "> 500 ha" shall be substituted;

(b) in column (4),-

(A) for "≤ 100 ha of mining lease area in respect of non-coal mine lease", the following shall be substituted, namely:-

"All mining lease area in respect of minor mineral mining leases and ≤ 250 ha mining lease area in respect of major mineral mining lease other than coal";

(B) for the symbols, figures and letters “ ≤ 150 ha”, the symbols, figures and letters “ ≤ 500 ha” shall be substituted;

(ii) against item 1(c),—

(a) in column (3),—

(A) in serial number (i), for the symbols, figures and letters “ ≥ 50 MW”, the symbols, figures and letters “ ≥ 100 MW” shall be substituted;

(B) serial number (ii) and the entries relating thereto shall be omitted;

(b) in column (4),—

(A) in serial number (i), for the symbol, figures and letters “ < 50 MW”, the symbol, figures and letters “ < 100 MW” shall be substituted;

(B) in serial number (ii),—

(I) the word, symbol and figures “and $< 50,000$ ha.” shall be omitted;

(II) in point (c) in the table, the word, symbol and figures “to $< 50,000$ ” shall be omitted;

(c) in column (5), after serial number (ii), the following serial number shall be inserted, namely:—

“(iii) Irrigation projects involving Inter-State issues shall be appraised at Central level without change in category.”;

(iii) against item 1(d),—

(a) in column (3), for the symbols, figures and letters “ ≥ 50 MW”, the symbols, figures and letters “ ≥ 100 MW” shall be substituted;

(b) in column (4), for the symbol, figures and letters “ < 50 MW”, the symbol, figures and letters “ < 100 MW” shall be substituted;

(iv) against item 2(a),—

(a) in column (3), for the symbols and figure “ ≥ 1 ”, the symbols and figures “ ≥ 2.5 ” shall be substituted;

(b) in column (4), for the symbols and figure “ < 1 ”, the symbols and figures “ < 2.5 ” shall be substituted;

(c) in column (5), after the existing paragraph, the following paragraph shall be inserted, namely:—

“Integrated coal mining projects with washeries located within mining lease area shall continue to be considered at Central level or State level, as the case may be, as per the extant threshold for coal mining projects.”;

(v) against item 2 (b),—

(a) in column (3), the existing entries shall be omitted;

(b) in column (4), for the symbol, figures, words and letters “ < 0.5 million TPA throughput”, the words “All mineral beneficiation projects irrespective of the procedure for beneficiation” shall be substituted;

(c) in column (5), after the existing paragraph, the following paragraph shall be inserted, namely:—

“Integrated mining projects with beneficiation plants located within mining lease area shall continue to be considered at Central level or State level, as the case may be, as per the extant threshold for mining projects.”;

(vi) against item 7 (a),—

(a) in column (3), for the words “All projects”, the words “All new projects” shall be substituted;

(b) in column (4), the following shall be inserted, namely:—

“All expansions projects, including airstrips, which are for commercial use.”.

[F. No. IA3-22/10/2022-IA.III]

Dr. SUJIT KUMAR BAJPAYEE, Jt. Secy.

Note : The principal notification was published in the Gazette of India, Extraordinary, Part II, Section III, sub-section (ii), vide, number S.O. 1533(E), dated the 14th September, 2006 and was last amended, vide, the notification number S.O. 1807(E), dated the 12th April, 2022.



ANNEXURE - R-7

F. No. 3-70/2020-IA.III [141127]
 Government of India
 Ministry of Environment, Forest and Climate Change
 (IA Division)

Indira Paryavaran Bhawan
 Jor Bagh Road, Aliganj,
 New Delhi - 110003

Dated: 8th August, 2022

OFFICE MEMORANDUM

Subject: Clarification on the applicability of EIA Notification 2006 for excavation of Ordinary Earth from borrow area for linear projects - reg.

The Ministry, vide Notification S.O. 1224 (E) dated 28.03.2020, amended the appendix IX of EIA Notification to inter-alia provide exemption from Environmental Clearance (EC) for "*extraction or sourcing or borrowing of ordinary earth for linear projects such as roads, pipelines etc.*"

2. Subsequently, the above mentioned Notification was challenged before the National Green Tribunal, Principal Bench in Original Application No. 190/2020 in the matter of Noble M. Paikada Vs. Union of India & Ors., wherein the Hon'ble Tribunal while disposing of the application vide order dated 28/10/2020, *inter-alia* held that "*.....the exemption should strike balance and instead of being blanket exemption, it needs to be hedged by appropriate safeguards such as the process of excavation and quantum...*" and directed to revisit the impugned notification dated 28.03.2020.

3. Subsequently vide order dated 31/05/2022, the Hon'ble NGT in M.A. No. 07/2022(WZ) & M.A. No. 08/2022(WZ) in Original Application No. 68/2020(WZ) titled Shri Rajiv Babasaheb Waman & Ors. vs. Ministry of Environment, Forest & Climate Change & Ors inter-alia held that "*... that excavation of earth and mining of sand and other minor minerals being hazardous activity having serious adverse impact on environment in view of 'Precautionary' and 'Sustainable Development' principles, such activity cannot be left unregulated by statutory enforceable mechanism. Blanket exemption is against ecologically sustainable development norms and judgment of Hon'ble Supreme Court...*"

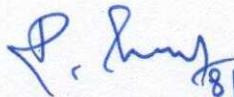
4. The matter was referred to the concerned Expert Appraisal Committee (EAC) for deliberation. After due deliberation, the EAC was of the opinion that if such linear project has obtained EC based on EIA studies incorporating such sourcing of construction material or other activities, necessary safeguards are already incorporated in the EC appraisal process. However, if such sourcing of material is not considered in the EIA or such linear project does not attract provisions of EC, then

such individual activities will be subject to extant environmental regulations as per EIA Notification 2006, as amended and/or applicable environmental safeguard related directions issued by the State Government /SPCB which need to be observed while sourcing construction material.

5. Based on the recommendations of the EAC and keeping in view the direction of Hon'ble NGT, the matter has been examined by the Ministry in detail and it has been decided that the exemption from EC provided vide S.O. 1224 (E) dated 28.03.2020 for "extraction or sourcing or borrowing of ordinary earth for linear projects such as roads, pipelines etc." shall be subject to Standard Operating Procedure (SOP) as enclosed to this Office Memorandum.

6. This is issued with the approval of the Competent Authority.

Encl: as above.


8/8/22
(Sundar Ramanathan)
Scientist 'E'

To

1. Chairman and Member Secretaries of SEIAA/ SEACs.
2. Chairman, Central Pollution Control Board (CPCB).
3. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
4. All the Officers of I.A. Division

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to DGF&SS (EF&CC)
5. PPS to AS(TK)/PPS to JS (SKB)
6. Website, MoEF&CC/Guard file

ANNEXURESOP for Borrow Area Identification; its operation, safety and redevelopment

The activity relates to identification of borrow areas to obtain earth/soil materials; its operation, safety and redevelopment shall be carried out as per the following criteria:

1. Selection of site, operation and site-specific measures to adopt

- i. Environmental issues like siting borrow pit location, soil erosion aspects, accumulation of run-off and associated problems, disposal of debris by local community in open borrow area, transport of borrow earth to construction site, preservation of top soil of 15m depth and reuse for plantation, reinstatement of borrow pits and sites shall be considered before selection of site.
- ii. Guidelines, Manuals, Notifications etc issued by various agencies from time to time like IRC, MoRTH, MoEFCC etc shall be followed.
- iii. For selection of the site for the borrow area, agricultural land, cut material available from other road construction projects, dredging material from dredging operations of ponds, lakes, rivers and canals, material from barren land or land without tree cover outside the road RoW, material from excavation of proposed culverts can be considered. Provided further that, highly productive top-soil shall be stored separately and used for planation activity.
- iv. Borrowing shall be avoided on the lands close to toe line, irrigated agricultural lands, grazing land, lands within settlements, 1 Km from environmentally sensitive areas such as Reserve Forests, Protected Forests, Sanctuary, National Parks, Conservation Reserve, Wetlands etc, unstable and fragile side-hills, streams and seepage areas, areas supporting rare plants/ animal species. It should be ensured that unsuitable soft rock is not prominent within the proposed depth of excavation which will render rehabilitation difficult.

2. The General Guidelines

- i. The preservation of topsoil will be carried out in stockpile.
- ii. A 15 cm topsoil will be stripped off from the borrow pit and this will be stored in stockpiles in a designated area for height not exceeding 2m and side slopes not steeper than 1:2 (Vertical: Horizontal).
- iii. Preservation of Top Soil of 15cm depth and its reuse for plantation
- iv. Validation of the work of re-use of Top Soil by the AE/IE. Competent authority to check the re-use anytime if warranted.
- v. Borrowing of earth will be carried out up to a depth of 2m from the existing ground level.
- vi. Borrowing of earth will not be done continuously throughout the stretch.
- vii. Ridges of not less than 8m widths will be left at intervals not exceeding 300m.
- viii. Small drains will be cut through the ridges, if necessary, to facilitate drainage.
- ix. Depends upon the location of borrow areas, the safeguard measures & management specific treatment as a particular borrow area depending upon its

location viz Agriculture Land, Elevated Land, Waterbody, near Settlement and along the alignment.

3. Re-development of Borrow Areas

The objective of the rehabilitation programme is to return the borrow pit sites to a safe and secure area, which the general public should be able to use safely. Securing borrow pits in a stable condition is fundamental requirement of the rehabilitation process. This could be achieved by filling the borrow pit approximately to the road level. Following measures shall be taken for Rehabilitation:

- i. Borrow pits shall be backfilled with rejected construction wastes (unserviceable materials) including fly ash, compacted and will be given a turfing or vegetative cover on the surface. If this is not possible, then excavation slope should be smoothed, and depression is filled in such a way that it looks more or less like the original ground surface.
- ii. During works execution, the Contractor shall ensure preservation of trees during piling of materials; spreading of stripping material to facilitate water percolation and allow natural vegetation growth; re-establishment of previous natural drainage flows; improvement of site appearance; digging of ditches to collect runoff; and plantation may be carried out wherever feasible or pit may be developed for water storage as per Amrit Sarovar Scheme of MoRTH.

4. Development of Amrit Sarovar

Under Amrit Sarovar Programme, water bodies are being developed by MoRT&H/NHAI/other road development agencies and the desilting of existing water body is also being taken up for water harvesting and re-charge of ground water. The earth available from development of such water bodies is to be utilised for road works and plantations as per suitability of soil. The State Authorities have already been advised not to levy any royalty for borrowing of earth for development of water bodies under Amrit Sarovar Programme.



ANNEXURE - R-8

महाराष्ट्र गौण खनिज उत्खनन
(विकास व विनियमन) नियम, २०१३
मधील अल्प मुदतीच्या परवाण्याबाबत
कार्यवाहीबाबत निर्देश.

महाराष्ट्र शासन

महसूल व वन विभाग

शासन परिपत्रक क्रमांक : गौखनि-१०/१०२२/प्र.क्र.२९२/ख-२

हुतात्मा राजगुरु चौक, मादाम कामा मार्ग,

मंत्रालय, मुंबई - ४०००३२

दिनांक : १३ ऑक्टोबर २०२२

संदर्भ :- १) महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३
२) शासन परिपत्रक क्रमांक गौखनि-१०/१०१२/प्र.क्र.६०३/ख, दि. ०१.११.२०२१.

प्रस्तावना :-

खाण व खनिज (विकास व विनियमन) अधिनियम, १९५७ च्या मलम १५(१)(३) अन्वये प्रदान करण्यात आलेल्या अधिकाराचा वापर करुन महाराष्ट्र शासनाने महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३ तयार करण्यात आले आहेत. सदर नियमातील गौण खनिजासाठी अल्प मुदतीचे परवाने देण्याबाबत तसेच सदर परवाने निर्गमित करण्यास असलेले सक्षम प्राधिकारी याबाबत तरतूद करण्यात आली आहे.

याबाबत मा. राष्ट्रीय हरीत लवादाने दिलेला निर्णय व त्यानंतर केंद्र शासनाच्या पर्यावरण, वन व वातावरणीय बदल मंत्रालयाने दिनांक ८ ऑगस्ट २०२२ रोजी दिलेले कार्यालयीन ज्ञापन व त्यानंतर मा. मुंबई उच्च न्यायालयाच्या नागपूर खंडपीठाने दिलेल्या निकालानुसार सर्व यंत्रणाना, सर्व क्षेत्रीय अधिकारी व कर्मचारी यांना दिनांक १४/०९/२०२२ रोजी सूचना देण्यात आल्या होत्या. तथापि, याबाबत काही जिल्हयामधील अधिकाऱ्यांना याबाबत संभ्रम असल्याचे नमूद करुन सदर परवाने देत नाहीत, अशी बाब शासनाच्या निदर्शनास आलेली आहे. त्या अनुषंगाने गौण खनिजाचे linear project साठी अल्प मुदतीचे अथवा जास्त कालावधीचे परवाने देण्याबाबत क्षेत्रीय स्तरावरील अधिकारी, कर्मचाऱ्यांना निर्देश देण्याची बाब शासनाच्या विचाराधीन होती. त्याबाबत शासन खालील प्रमाणे निर्देश देत आहेत.

शासन परिपत्रक :-

अ) पर्यावरण, वन व वातावरणीय बदल मंत्रालयाच्या दिनांक २८/०३/२०२० रोजीच्या अधिसूचनेतील परिशिष्ट ९ मधील बाबीसाठी पर्यावरण अनुमतीची गरज नाही असे स्पष्टपणे नमुद केले आहे. यामध्ये अ.क्र. ६ वर (Extraction or sourcing or borrowing of ordinary earth for the linear projects such as road, pipelines etc.) असे नमूद आहे. तथापि याबाबत ही मा. राष्ट्रीय हरीत

न्यायालयाच्या दिनांक ७ मार्च २०२२ रोजीच्या आदेशाच्या अनुषंगाने शासनाने दि. २४/०३/२०२२ च्या पत्रान्वये यासाठीचे परवाने ही पर्यावरण अनुमती शिवाय देता येणार नाही, असे कळविले होते. परंतु त्यानंतर मा. राष्ट्रीय हरीत न्यायालयाच्या निर्णयाचा परामर्श घेऊन व Expert Appraisal Committee चा सल्ला घेऊन केंद्र शासनाच्या पर्यावरण, वन व वातावरणीय बदल मंत्रालयाने दि.०८.०८.२०२२ रोजी स्पष्ट सूचना दिलेल्या आहेत. त्या सूचना मधील परिच्छेद ५ हा आदेश स्वरूपातील आहे. त्याचे अवलोकन व पालन करणे सर्व क्षेत्रीय अधिकारी/ कर्मचारी यांच्यावर बंधनकारक करण्यात येत आहे.

याचाच अर्थ की linear projects साठी आवश्यक असणारी Earth / Soil material साठी परवाने देतांना पर्यावरण अनुमती स्वतंत्रपणे लागणार नाही. तथापि, केंद्र सरकारच्या दि. ०८/०८/२०२२ च्या जापनातील परिशिष्ट मधील (SOP- Standard Operating Procedure) चे अनुपालन करणे क्षेत्रीय अधिकारी /कर्मचारी यांना बंधनकारक आहे. या निर्देशांचे पालन करुन क्षेत्रीय स्तरावरील संबंधित अधिकारी/ कर्मचारी यांनी असे परवाने देण्याची कार्यवाही करावी व याबाबतच्या प्रक्रिये संबंधी पूर्वी दिलेल्या सूचना एकत्रितपणे पुन्हा स्पष्ट करण्यात येत आहे.

- ब)** १) महाराष्ट्र गौण खनिज उत्खनन (विकास व विनियमन) नियम, २०१३ मधील तरतूदीनुसार गौण खनिजासाठी अर्ज व त्याबाबतचे प्रक्रिया शुल्क भरुन देण्याची कार्यवाही करण्यात यावी.
- २) सदर नियमाच्या नियम ५९ खाली गौण खनिज परवाना देण्यासाठी सक्षम प्राधिकारी यांनी अर्ज प्राप्त झाल्याच्या ३० दिवसाच्या आत परवाने निर्गमित करण्याबाबतची कार्यवाही करण्यात यावी.
- ३) तसेच सदर नियमानुसार अल्प / तात्पुरत्या मुदतीचे परवाने देण्यास सक्षम असलेल्या सक्षम प्राधिकारी यांनी ज्या क्षेत्रातून परवाना देत आहे ते क्षेत्र जिल्हा खाणकाम योजनेत अंतर्भाव करण्यात आले असल्याचे खात्री केल्यानंतरच परवाने देण्याची कार्यवाही करावी.
- ४) मुख्य नियम-४६ मधील उपनियम (१) अन्वये जमिनीच्या भूखंडाचा विकास करताना नियोजन प्राधिकरणाने मंजूर केलेल्या भूखंडाचा विकास आराखडा/बांधकाम परवाना यामध्ये अंतर्भूत गौण खनिज उत्खननाचे परिमाण, इत्यादी बाबी विचारात घेऊन स्वामित्वधनाची आकारणी करण्यात यावी.
- ५) गौण खनिजाचे अल्प / तात्पुरते परवाना देण्यास सक्षम असलेल्या अधिकारी यांनी खालीलप्रमाणे परिमाण विचारात घेऊनच आदेश निर्गमित करण्यात यावेत :-

अ.क्र.	सक्षम प्राधिकारी	परिमाण (ब्रास)
१	तहसिलदार	५००
२	उप विभागीय अधिकारी	२०००
३	जिल्हाधिकारी	१. २५००० २. अधिसूचीत केलेल्या कोणत्याही महत्वाच्या सार्वजनिक प्रकल्पासाठी १००००० पेक्षा अधिक नाही.

सदर शासन परिपत्रक महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आले असून त्याचा संकेतांक २०२२१०१३१८१५२६९११९ असा आहे. हे परिपत्रक डिजीटल स्वाक्षरीने साक्षांकित करुन काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

(रमेश चव्हाण)

शासनाचे सह सचिव

प्रत,

१. मा. राज्यपाल यांचे प्रधान सचिव, राजभवन, मलबार हिल, मुंबई.
२. मा. मुख्यमंत्री, महाराष्ट्र राज्य यांचे प्रधान सचिव, मंत्रालय, मुंबई.
३. मा. विधानसभा अध्यक्ष यांचे खाजगी सचिव, विधानमंडळ, मुंबई.
४. मा. विधानपरिषद सभापती यांचे खाजगी सचिव, विधानमंडळ, मुंबई
५. मा.मंत्री, महसूल यांचे खासगी सचिव, मंत्रालय, मुंबई.
६. मा. राज्यमंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई.
७. सर्व मा. मंत्री /मा. राज्यपाल यांचे खाजगी सचिव, मंत्रालय, मुंबई
८. सर्व मा. विधानसभा / विधानपरिषद सदस्य.
- ९) सर्व मंत्रालयीन विभाग
१०. सर्व विभागीय आयुक्त.
११. सर्व जिल्हाधिकारी.
१२. सर्व उपविभागीय अधिकारी.
१३. सर्व तहसिलदार.
१४. संचालक, भूविज्ञान व खनिकर्म संचालनालय, नागपूर.
१५. निवडनस्ती.



ANNEXURE - R-9

Item No. 02

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 68/2020(WZ)

(With report dated 19.11.2020)

Shri Rajiv Babasaheb Waman
& 11 Ors. (Ahmednagar-Maharashtra)

Applicant(s)

Versus

Ministry of Environment, Forest & Climate
Change Union of India Through Secretary & 11 Ors.

Respondent(s)

Date of hearing: 17.02.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Rajiv B. Waman, Applicant in person

Respondent: Mr. D. M Gupte, Advocate for R-1
Ms. Mansi Joshi, Advocate for MPCB, R-4 & 9
Mr. Aniruddha S Kulkarni, Advocate for SEIAA
Ms. Swati Pandit, Advocate R - 7
Mr. Preshit Surshe, Advocate for R-11**ORDER**

1. Grievance in this application is against operation of stone quarry and stone crushing activity of respondent nos. 11 and 12 – M/s Gayatri Projects Limited, and M/s Khade Mewara Infra Projects and Mining, at Village Hasanabad, District Ahmednagar, Maharashtra, in violation of environmental norms. According to the applicants, the said units were non-compliant with the consent/EC conditions. Blasts were conducted without safeguards and precautions. Air pollution was caused by dust

generated by the crushing activity. Natural stream was diverted, flora and fauna in the mine area was adversely affected. Transportation of the material was done without safeguards. The applicant relied upon media reports and also statutory requirement of EC in terms of binding judgment of the Hon'ble Supreme Court in *Deepak Kumar v. State of Haryana*, (2012) 4 SCC 629.

2. Vide order dated 08.10.2020, the Tribunal issued notice to the Project Proponents as well as the statutory regulators and constituted a joint Committee comprising District Collector, Ahmednagar or his representative and Representative of Maharashtra State Pollution Control Board (SPCB) to furnish a factual and action taken report in the matter.

3. In pursuance of above, report of the joint Committee dated 19.11.2020 has been filed which was partly considered on 12.08.2021 and on 23.09.2021. The matter was deferred for further consideration.

4. Accordingly, we have considered the matter further in light of facts found in the joint Committee report dated 19.11.2020 as well as submission made by the Project Proponent and the State PCB.

5. The report of the joint Committee after undertaking visit to the site on 04.11.2020 finds that there is no EC for the mining which was carried out only on the basis of a temporary permit in violation of law laid down in *Deepak Kumar (Supra)*. The stone crusher has been found causing pollution, without requisite consent from the State PCB.

6. During the hearing, a copy of EC granted on 24.05.2021 to M/s Gayatri Project has been filed but the same does not justify mining conducted for earlier period, as found in the joint Committee report. The relevant extracts from the joint Committee report are:-

“1. **Illegal Stone Mining - M/s Gayatri Project Ltd.** is direct agency working under the MSRDC for Nagpur-Mumbai Super Communication Expressway Project (Samruddhi Mahamarg) . M/s Gayatri Project Ltd. has set up stone crusher unit only for captive purpose of the said expressway. The District Collector, Ahmednagar vide his Orders No..Gaukh/karya4k/397/2020 Dt19/03/2020 had accorded the permission to excavate 1000 brass murum from Gat No.313 and 20000 brass stone from Gat No.314 at village Hasanabad. There was National Lock down due to COVID 19 M/s Gayatri Project Ltd. could not excavate the said quantity so extension was given vide letter No. Gaukh/karya4k/532/2020 Dt25/06/2020. **To ascertain the quantity of stone excavated ETS measurement was carried out on 09/11/2020. As per the said measurement it is seen that M/s Gayatri Projects Ltd. had excavated total 20,014 brass. As per the ETS measurement no significant excavation beyond the permitted quantity is carried out.**

As per the Notification of Government of Maharashtra dated 14/11/2018 Nagpur-Mumbai Super Communication Expressway Project is declared as vital public project and waived the levy of royalty leviable under the Maharashtra Minor Mineral Extraction (Development and Regulation) Rule, 2013 on excavation for Minor Mineral required for the said project. As per the Government of Maharashtra Circular Dated 27/05/2019 if excess quantity is excavated it is **to** be brought to notice of Collector and Collector has to give written warning to concerned agency. Mining was carried out as per temporary permit given to M/s Gayatri Project Ltd. No illegal mining was carried out by M/s Gayatri Projects Ltd. **Here to marked and annexed Exh. R 1 are the copies of temporary permit orders dated 19/03/2020 & 2S/06/2020, ETS measurement report, Government Notification dated 14/11/2018, Government Circular dated 27/05/2019, collectively.**

2. Illegal Mining without prior environmental clearance-As per the Maharashtra Minor Mineral Excavation Rules, 2013 Chapter -IV, no prior environmental clearance is needed for granting temporary permit for excavation. As per this provision Government of Maharashtra vide letter dated 12/12/2013 have issued clarification regarding issuance of temporary permits. As per the provision temporary permits of excavation of stone were issued to M/s Gayatri Projects Ltd. **Here to marked and annexed Exh. R-2 is the copy of letter dated 12/12/2013 issued by Government of Maharashtra.**

3. Illegal stone crushing- M/s Gayatari Project Ltd. Gut No. 314 of Hasnabad had applied for obtaining consent to establish to Maharashtra Pollution Control Board on 11/06/2020 and the Board has granted consent to establish to the said crusher vide letter with Sr. No. 2008000230 on 07/08/2020. **Thereafter, Board was in receipt of complaints regarding pollution problem due to the said crusher and after investigation of these complaints, Proposed Directions (PD) under Water Act and Air Act was issued on 27/08/2020. The project proponent had applied for obtaining consent to operate vide**

Online application UAN-0000097017 on 25/08/2020. The show cause notice for Refusal of application for consent to operate was issued on 22/09/2020 for non installation of adequate air pollution control system and the said application was refused vide letter with Sr. No. 2009001268 on 29/09/2020 for non-compliance of conditions of consent to Establish and non submission of reply to the said notice. The PP has again applied for obtaining consent to operate vide UAN-000010072 on 13/10/2020. Here to marked and annexed Exh. R-3 are the copies consent to establish, Proposed Directions (PD), Show cause notice for refusal and refusal letter collectively.

4. Illegal crushing without permission of MPCB- The PP has operated the said stone crusher from July to October, 2020 without consent to operate and adequate Air pollution control system. At the time of visit about 5000 Brass aggregate (Stone Metal) was found stored in the crushing premises. The office of Sub Regional Officer, MPCB Ahmednagar has submitted proposal through legal module to Regional Office, Nashik for issuance of further appropriate stringent directions. However, the said proposal was reverted to this office for want of joint committee report as per the directions of Role National Green Tribunal dated 08/10/2020. This office will resubmit the said proposal to the Higher authority along with report of joint committee for issuance of appropriate directions such as environmental compensation due to operation of the stone crusher without consent to operate of the Board and without adequate Air pollution control system as well as directions towards not to run the crusher without obtaining consent to operate of the Board. The stringent action and penalty as per law will be levied to Project Proponent for violation as reported above. Also in future, the project will be monitored keeping in view any violation of environment laws.”

7. In the response filed by the State PCB, violations are acknowledged but it is stated that environment compensation of Rs. 5,75,000/- has been assessed on Respondent no. 11 for operating the stone crusher without requisite consent. No compensation has been levied for illegal mining without requisite EC in terms of judgement of the Hon'ble Supreme Court.

8. There is no objection to the report of the joint Committee, finding violations by the stone quarry operator as well as stone crusher. We find the report to be based on site visit and is objective. We accept the same

except with regard to compensation. We are further of the view that legal action needs to be taken for mining without EC. Vide order dated 03.02.2022 in O.A. No. 36/2021 (WZ), *Siddharth Developers & Suppliers Through its Authorized Representative Shri Bharat Kathrani S/o Shri Rajnikant Kathrani v. Union of India Through Principal Secretary MoEF & CC*, this Tribunal noted that requirement of EC has to be followed irrespective of the circular of State of Maharashtra dated 12.12.2013 addressed to all Divisional Commissioners and All Collectors for grant of temporary permits, in view of the law laid down by the Hon'ble Supreme Court in *Deepak Kumar (Supra)*. Circular of the State of Maharashtra for issuing temporary permits does not and cannot dispense with the judgment of the Hon'ble Supreme Court in *Deepak Kumar (Supra)*. Doing so will be contempt of order of the Hon'ble Supreme Court. It is duty of the State of Maharashtra to issue clarification in view of the fact that its circular is resting in defiance of judgment of the Hon'ble Supreme Court to the detriment of environment and rule of law. The Chief Secretary, Maharashtra may ensure further remedial action in this regard.

9. We constitute a joint Committee of CPCB and State PCB to take further remedial action for compliance of law by the mining project fixing accountability for illegal mining till obtaining of EC, following due process of law, within two months. The joint Committee may also ascertain status of compliance by stone crusher in terms of requirement of EC/consent as per law.

10. An action taken report may be filed by the joint Committee by 15.05.2022 by e-mail with the Registrar, Western Zonal Bench, NGT. If the Registrar finds that any further direction is necessary, the matter may be placed before the Bench.

Subject to above, the application stands disposed of.

A copy of this order be forwarded to Chief Secretary, Maharashtra, of CPCB and State PCB by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. Nagin Nanda, EM

February 17, 2022
Original Application No. 68/2020(WZ)
SN



ITEM NO.27

COURT NO.4

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 25543/2022

(Arising out of impugned final judgment and order dated 17-02-2022 in OA No. 68/2020 passed by the National Green Tribunal)

MAHARASHTRA RAJYA VADAR SAMAJ SANGH & ORS.

Appellant(s)

VERSUS

MINISTRY OF ENVIRONMENT FOREST AND CLIMATE
CHANGE & ORS.

Respondent(s)

(IA No.123253/2022-CONDONATION OF DELAY IN FILING and IA No.123257/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.123256/2022-STAY APPLICATION and IA No.123260/2022-EXEMPTION FROM FILING O.T. and IA No.123252/2022-PERMISSION TO FILE APPEAL and IA No.123258/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 09-09-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Anand Dilip Landge, AOR
Mr. Avineesh Jha, Adv.

For Respondent(s) Mr. Mukesh Verma, Adv.
Mr. Pankaj Kumar Singh, Adv.
Mr. Pawan Kumar Shukla, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Applications for exemption from filing certified copy of the impugned judgment and exemption from filing official translation are allowed.

Permission to file Civil Appeal is granted.

Delay condoned.

Issue notice.

Operation and execution of the impugned order shall remain stayed insofar as the appellants are concerned, until further orders.

(ANITA MALHOTRA)
AR-CUM-PS



(KAMLESH RAWAT)
COURT MASTER

ITEM NO.37

COURT NO.4

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 29623/2022

(Arising out of impugned final judgment and order dated 17-02-2022 in OA No. 68/2020 passed by the National Green Tribunal)

RASIKA DATTATRY GAVADE & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.145374/2022-STAY APPLICATION and IA No.145368/2022-EX-PARTE STAY and IA No.145369/2022-EXEMPTION FROM FILING O.T. and IA No.145376/2022-INTERVENTION/IMPLEADMENT and IA No.145366/2022-PERMISSION TO FILE APPEAL and IA No.145367/2022-CONDONATION OF DELAY IN FILING APPEAL and IA No.145370/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 14-10-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Mr. Owais Anwar Pechkar, Adv.
Ms. Vidya Vijaysinh Pawar, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Application for exemption from filing official translation is allowed.

Permission is granted to file civil appeal.

Delay condoned.

Issue notice.

Operation of the impugned order shall remain stayed until further orders.

Tag with Civil Appeal No.6558/2022.

(ANITA MALHOTRA)
AR-CUM-PS



(KAMLESH RAWAT)
COURT MASTER

ANNEXURE - R-12

1

wp2153.22.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPURWRIT PETITION NO. 2153 OF 2022

Orange City Stone Crusher Owners
Association, Nagpur, Registration
No. MH/650/1999/NP/23/8/1999
through its Secretary
Shri Arvind S/o Janrao Gajbhiye,
aged about 55 years,
Occupation : Business,
R/o. 8-Rasta Chowk, Laxmi Nagar,
Nagpur.

.... PETITIONER// **VERSUS** //

- 1) State of Maharashtra,
through the Principal Secretary,
Revenue Department, Room No.20,
Annex building, Mantralaya,
Mumbai-440032.
- 2) The District Collector,
Collectorate, Civil Lines,
Nagpur.
- 3) The District Mining Officer,
Collectorate Compound,
Civil Lines, Nagpur.
- 4) Joint Secretary,
Revenue and Forest Department,
Mantralaya, Main Building,
1st Floor, Madam Kama Road,
Hutatma Rajguru Square,
Mantralaya, Mumbai-32.
- 5) Sub Divisional Officer,
Umred, Tahsil Umred,
District : Nagpur.

- 6) Tahsildar, Umred,
Tahsil Umred, District : Nagpur. **RESPONDENTS**

WITH

WRIT PETITION NO. 2163 OF 2022

Akhil Maharashtra Quarry and
Crusher Owner's Federation,
through its Working President,
Mr. Keshav S/o. Shankarrao Thakre,
Aged about 60 years,
Office at : Sanskrutik Sankul,
Jhansi Rani Square,
Nagpur – 440012.

.... **PETITIONER**

// VERSUS //

- 1) State of Maharashtra,
through its Joint Secretary,
Ministry of Revenue and Forest,
703/4, 1st Floor, Mantralaya Extension,
Mumbai-400032.
- 2) The Collector,
Ravindranath Tagore Marg,
Civil Lines, Nagpur – 40001,
Maharashtra.
- 3) The Divisional Commissioner,
Ravindranath Tagore Marg,
Civil Lines, Nagpur – 40001,
Maharashtra.
- 4) State Level Environment Impact
Assessment Authority,
through its Chairman, 601,
6th Floor, NKM International House,
behind LIC Yogakshema Building,
177 Babubhai Chinoy Marg,
Nariman Point, Mumbai – 400020,
Maharashtra.

- 5) Sub-Divisional Officer,
Sub-Divisional Office, VCA Stadium
Complex, 129, Civil Lines, Nagpur.
- 6) Tahsildar (Nagpur City),
Tahsil Office, Akashwani Square,
New Collector Compound,
Civil Lines, Nagpur.

.... **RESPONDENTS**

WITH

WRIT PETITION NO. 2731 OF 2022

M/s. Shlok Stone Crusher,
Through its Proprietor,
Ms. Nikita Gopal Chouksay,
aged about : Major,
Having its registered Office at
Shop No.110, Mouraya-1 Apartment,
Ganesh Nagari, Near Patel Petrol,
Koradi Road, Nagpur-441111
Maharashtra

.... **PETITIONER**

// VERSUS //

- 1) The State of Maharashtra,
Through the Secretary,
Revenue & Forest Department,
Room No. 456/461 Annex,
Hutatma Rajguru Chowk,
Madam Cama Road, Mantralaya,
Mumbai-400032.
- 2) District Collector, Nagpur,
Collectorate, Civil Lines,
Nagpur-440001, Maharashtra.
- 3) Sub-Divisional Officer,
Umred, Tehsil Umred,
District – Nagpur.
- 4) The Tehsildar (Umred),
Umred, Tehsil Umred,
District – Nagpur.

- 5) Maharashtra Pollution Control Board,
Through the Regional Officer,
Udyog Bhavan, 5th Floor,
Near Sales Tax Office, Civil Lines,
Nagpur – 440001.
- 6) State Environment Impact Assessment
Authority, through the Chairman,
601, 6th Floor, NKM International House,
behind LIC Yogakshema Building,
177 Babubhai Chinoy Marg,
Nariman Point, Mumbai-400020.
- 7) District Mining Officer,
Collectorate Compound,
Civil Lines, Nagpur-440001,
Maharashtra.

.... **RESPONDENTS**

WP No.2153/2022

Mr. S.K.Mishra, Senior Advocate with Mr. Kaustabh
Deogade for the petitioner.

Ms. N.P.Mehta, AGP for respondent nos. 1 to 6.

WP No.2163/2022

Mr. S.P. Bhandarkar, Advocate with Advocate Manish
Shukla, Advocate for the petitioner.

Ms. N.P.Mehta, AGP for respondent nos. 1 to 6.

WP No. 2731/2022

Mr. Ganesh H. Barange, Advocate for the petitioner.

Ms. N.P. Mehta, AGP for respondent 1 to 4 and 7.

Mr. S.S.Sanyal, Advocate for respondent no.5..

**CORAM : SUNIL B. SHUKRE
AND ANIL L. PANSARE, JJ.
RESERVED ON : 10.10.2022
PRONOUNCED ON 14.10.2022**

JUDGMENT (Per Sunil B. Shukre, J.)

Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent.

2. A short question involved in all these petitions is - whether it is permissible for the State Government to require a person interested in obtaining quarry permit under Rule 59 of the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013 (for short Rules, 2013) to submit environmental clearance as a condition precedent by issuing an executive instruction in the nature of impugned communication dated 24th March, 2022?

3. The brief facts leading to filing of these petitions are stated as under:-

a) The petitioners in Writ Petition No.2153/2022 and Writ Petition No.2163/2022 are the associations of stone crusher owners, the petitioner in Writ Petition No.2731/2022 is an individual, who runs

a proprietary concern engaged in the business of extraction and removal of minor minerals in specified quantities for short terms. The members of both the associations who have filed Writ Petition No.2153/2022 and Writ Petition No.2163/2022 are also engaged in similar business. Their grievance is common.

b) According to the petitioners, till very recently they used to be granted quarry permits for extraction and removal of minor minerals from the specified area and for a temporary period of time, not more than 30 days at a time, under Rule 59 of the Rules, 2013, without submitting environmental clearance certificate, but, with the issuance of communication dated 24th March, 2022 by respondent no.4, the quarry permits are not being issued to them unless they first submitted environmental clearance certificate from the Competent Authority. Their contention is that quarry permits are different than quarry leases, in the sense that quarry leases are granted usually for five years initially, which period is extendable further up to twenty years thereby making the quarry leases as long term grants but, in case of quarry permits, the permission is granted only for a period of 30 days at a time and it is limited to the areas specified in the permit itself. They further submit that it is this difference which has led to prescription of a

condition of environmental clearance certificate to be obtained by the quarry owner for obtaining a quarry lease under the Rules, 2013 and prescribing no such requirement in case of a quarry permit issued under Rules, 2013.

c) The petitioners submit that Rules, 2013 have been framed following directions of the Apex court in the case of *Deepak Kumar and others Vs. State of Haryana reported in (2012) 4 SCC 629* and, therefore, it is now the Rules, 2013 which would govern the issue. The petitioners also contend that in any case, executive instructions cannot supersede the Rules, 2013 framed under Section 15 of the Mines and Minerals Extraction (Development and Regulation) Act, 1957 (for short, "Act, 1957").

4. The respondents have submitted common reply to these petitions. The stand taken by the State Government, as seen from the reply, is that even in the opinion of the State Government, for issuance of a quarry permit under Rule 59 of the Rules 2013, it is not necessary to obtain prior environmental clearance, the permit being for a short term. The reply also gives an explanation about the issuance of the impugned communication. According to State Government, the

impugned communication has been issued by it in view of the directions given by the National Green Tribunal passed on 17th February, 2022 in OA No.68/2020 (WZ).

5. Shri Mishra, learned Senior Advocate appearing for the petitioner in Writ Petition No.2153/2022 submits that the National Green Tribunal has not considered the nature of the directions issued by the Supreme Court in the case of *Deepak Kumar (supra)* and thus, has held *per incuriam* that it is the duty of the State of Maharashtra to issue a suitable clarification in view of the fact that its Circular dated 12.12.2013 which clarified that for grant of temporary quarry permits there was no requirement of prior submission of environmental clearance certificate goes against the judgment of the Supreme Court in the case of *Deepak Kumar (supra)*. He also submits that the judgment of the National Green Tribunal (NGT) has been stayed in relation to the appellants therein by Supreme Court by its order dated 9.9.2022 passed in Civil Appeal Diary No.(S) 25543/2022.

6. The learned Senior Advocate further submits that in *Deepak Kumar (supra)* the Supreme Court had directed all the State Governments and Union Territories

to take immediate steps to frame necessary rules under Section 15 of the Act, 1957 taking into consideration the recommendations of MoEF made in its report of March 2010 and it had further directed that *in the meanwhile the leases of minor miners* including their renewal for an area of less than five hectares shall be granted by States/Union Territories only after getting environmental clearance from MoEF.

7. The learned Senior Advocate further submits that in compliance with these directions, the State Government has framed Rules, 2013 by issuing a Notification dated 18th July, 2013. He submits that the direction of the Supreme Court regarding submission of prior environmental clearance from MoEF in case of leases of minor minerals has been implemented by the State Government by framing Rules, 2013 and this requirement of submission of prior environmental clearance certificate has been clearly prescribed in Clause (f) of Rule 11 (5) of the Rules, 2013, which provides for making an application for grant of query lease and the manner in which the application should be made. He further submits that in case of quarry permits which are different from quarry leases, there is no such requirement of prior submission of environmental clearance certificate as can be seen from Rule 59 of the Rules, 2013

and the Rule 59 still governs the field as it has not been struck down or declared invalid by any Court. He further submits that in any case the direction given by the Apex Court requiring the prior submission of environmental clearance certificate was only in respect of leases of minor minerals and these directions having been already complied with by the State Government, now the issue involved here would be entirely governed by Rules, 2013.

8. The learned Senior Advocate further submits that the impugned communication has been issued by respondent no.6 and it is in the nature of an executive instruction. He further submits that when an executive instruction is issued in conflict with a statutory provision or any Rule having force of law, it would be the latter which would prevail. He places reliance upon the view taken by another coordinate bench of this Court of which one of us was part, in the case of *Rashtriya Shikshan Sangh and others Vs. State of Maharashtra and others in Writ Petition No.10347/2012 decided on 26th February 2022*.

9. The argument so advanced on behalf of the petitioner in Writ Petition No.2153/2022 is adopted by the learned counsel appearing for the petitioners in Writ

Petition Nos.2163/2022 and 2731/2022. Shri Bhandarkar, learned counsel for the petitioner in Writ Petition No.2163/2022 has added that in case of traditional occupation of work of sand by Vanjara and Oads, the Central Government has granted exemption from submission of any environmental clearance certificate for grant of mining lease, vide its notification dated 28.3.2020.

10. The learned AGP for the State Government submits that the impugned communication has been issued by respondent no.6 only to give effect to the directions of the National Green Tribunal but, the stand of the Government as stated in paragraph 5 of its reply is that as per the policy of the Government wherever any short term temporary permits for extraction of minor minerals are to be issued, there would be no requirement of submission of any prior environmental clearance certificate and the policy has remained as it is. He also does not dispute the fact that the interim direction given by the Apex Court in the case of *Deepak Kumar* (supra) was there only till the time the rules were framed under Section 15 of the Act, 1957 by the State Governments and the Union Territories and in this case rules have been framed, and the direction of submission of prior environmental clearance certificate for operation of lease

of minor minerals has also been incorporated in the Rules, 2013. He further submits that the quarry permit not being the same as quarry lease, there would be no requirement of prior submission of environmental clearance certificate for its grant.

11. In order to answer the question framed earlier, the arguments submitted on behalf of both sides would have to be considered by examining the background of Rules, 2013 and the nature of the provisions made therein, insofar as they govern the issue involved in the present cases.

12. In the case of *Deepak Kumar* (supra) the validity of the auction notice dated 3.6.2011 proposing to auction the extraction of minor minerals, boulders, gravel and sand quarries of an area not exceeding 4.5 hectares in the district of Panchkula, and auction notices dated 8.8.2011 for extraction of minor minerals in the districts of Panchakula, Ambala and Yamnuna Nagar exceeding five hectares was in question. One of the auction notices, which referred to mining leases of less than five hectares stated that the area envisaged under mining leases being of five hectors, no environmental clearance was required to be obtained as per MoEF Notification dated 14.9.2006. The Apex Court while

deciding the question, took into consideration recommendations made by the Ministry of Environment and Forest (MoEF) and stated in its report. One of the recommendations dealt with depth of mining and emphasised on the need for preparing a detailed hydrogeological report while stating that from the point of view of mineral conservation, it may not be desirable to impose blanket ban on mining operation below groundwater table. The recommendation was to the effect that it was only after a detailed hydrogeological report was prepared in respect of any mining operation for minor minerals that a decision regarding restrictions to be placed as regards depth of mining of any area, based upon the findings of study, should be taken on case to case basis.

13. Taking into consideration various recommendations made in the report of MoEF, the Supreme Court observed that operation of mines of minor minerals needs to be subjected to strict regulatory measures and that it was also felt necessary to have a relook at the definition of, “minor minerals” per se. It was further observed that there was necessity of preparation of “comprehensive mines plan” for contiguous stretches of mineral deposits by the respective State Governments and they may also be

encouraged to make inclusion of the plan by its appropriate incorporation in the Mineral Concession Rules, 1960 framed by the Ministry of Mines.

14. With the above referred observations, the Supreme Court issued a direction to the Central Government to take steps to bring into force the Minor Minerals Conservation and Development Rules, 2010 at the earliest and further directed the State Governments and Union Territories to take immediate steps to frame necessary rules under Section 15 of the Act, 1957 taking into consideration the recommendations of MoEF given in its report of March 2010 and model guidelines framed by the Ministry of Mines, Government of India. It further directed that in the meanwhile, leases of minor minerals including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting Environmental Clearance from MoEF. These directions have appeared in para 28 and 29 of the judgment, which are reproduced for the sake of convenience, as follows:

“28. The Central Government also should take steps to bring into force the Minor minerals Conservation and Development Rules, 2010 at the earliest. The State

Governments and UTs also should take immediate steps to frame necessary rules under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 taking into consideration the recommendations of MoEF in its Report of March 2010 and model guidelines framed by the Ministry of Mines, Government of India. Communicate the copy of this order to MoEF, Secretary, Ministry of Mines, New Delhi; Ministry of Water Resources, Central Government Water Authority; the Chief Secretaries of the respective States and Union Territories, who would circulate this order to the Departments concerned”.

“29. We, in the meanwhile, order that leases of minor minerals including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting environmental clearance from MoEF. Ordered accordingly.”

15. It would be clear from the above referred directions that the State of Maharashtra, which is one of the States covered by the directions given in paragraph

28, was required to take immediate steps to frame necessary Rules by exercising its powers under Section 15 of the Act of 1957. It would be further clear from the directions contained in paragraph 29 that no lease of minor minerals including the renewal of lease granted for an area of less than five hectares shall be granted without prior submission of environmental clearance obtained from MoEF till the rules were framed, which is evident from the words, “We, “*in the meanwhile*” and “*leases of minor minerals*”.

16. The Rules 2013, as stated earlier, have been framed by issuing Notification dated 18th July, 2013 in compliance with the directions contained in paragraph 28 of the Judgment of *Deepak Kumar* (supra). These Rules have been framed in exercise of powers conferred upon the State Government under Section 15 of the Act, 1957. Now, the incidental question is whether Rules, 2013 give effect to the interim direction of the Apex Court regarding granting of lease of minor minerals and renewal of such a lease for an area of less than five hectares only upon submission of environmental clearance certificate obtained from MoEF or not.

17. The answer to the said question lies in the provisions made in Chapter II of the Rules, 2013.

Chapter II of the Rules, 2013 deals with the procedure for grant of quarry lease. Rule 11 provides for application of quarry lease and the requirements to be fulfilled while making the application. It prescribes various requirements including requirement of submission of documents. The documents which are required to be submitted are enumerated in sub-rule (5) of Rule 11 of the Rules, which reads as under:

“11.Application of quarry lease.

11(1)....

11(2)....

11(3)...

11(4)....

11(5) Every application for grant or renewal of quarry lease shall be in addition to the documents mentioned above shall be accompanied with,

(a)Mining dues clearances certificate.

(b)Record of rights of the area applied for.

(c)A map showing the location of the area.

(d)Approved Mining plan and progressive mine closure plan for the area in case of renewal.

(e) Solvency Certificate of the applicant issued from a revenue officer not below the rank of Tahsildar.

(f) Environment Clearance Certificate issued from the appropriate authority in case of renewal, if environment clearance period expires for the period requested for extraction”.

18. It would be clear from the list of documents prescribed in the above referred Rule that an application for grant of quarry lease must be accompanied by all these documents and one of them is the document of environment clearance certificate issued by the appropriate authority (Clause f). That means that no quarry lease can be granted as per Rule 11 (5), unless all the documents listed therein including the environmental clearance certificate, are submitted along with the application for grant of quarry lease. This Rule, thus, incorporates the interim direction given by the Apex Court regarding necessity of prior submission of environmental clearance certificate for grant of lease of minor minerals irrespective of the size of the area leased. Therefore, the incidental question posed by us earlier has to be answered as in the affirmative and we do so.

19. The next incidental question that arises is - as to by which regimen now the issue of exploitation and extraction of minor minerals is governed? Considering the fact that there was a direction issued by the Apex Court to all the State Governments and Union Territories to frame necessary rules under Section 15 of the Act, 1957, the fact that the interim direction was issued to cover the period of interregnum till the necessary rules were framed and also the fact that now the rules, which are Rules, 2013 for the State of Maharashtra, have been indeed framed as per Notification dated 13th July, 2018, the issue of exploitation and extraction of minor minerals would be governed by the regulatory mechanism prescribed in the Rules, 2013. We, therefore, answer the next incidental question accordingly.

20. After having found out the regimen by which the issue of exploitation and extraction of minor minerals is governed, we think that now, it would be easier for us to make an attempt to answer the question framed by us at the beginning of the judgment and which is the cause of the common grievance raised in these petitions. For this purpose, let us look into the relevant provisions of Rules, 2013.

21. Upon consideration of the relevant provisions of Rules, 2013, we find that these Rules contemplate two kinds of regulatory measures for exploitation and extraction of minor minerals. One is that of “quarry lease” and the other is of “quarry permit”. Both these measures are defined in Rule 2 (r) and Rule 2 (t) respectively. Their definitions read as under:

“Rule 2 (r) “Quarry lease” means a lease to mine, quarry, bore, dig, search for, win, work and transport or carry away any minor mineral specified therein;”

“Rule 2 (t) “Quarry permit” means a permit granted under Chapter-IV of these rules to extract and remove any minor mineral in specified quantities and specified time”.

22. It would be clear from the above definitions that under the Rules, 2013 distinction has been made between ‘quarry lease’ which is not granted under Chapter IV and ‘quarry permit’ which is granted under Chapter IV of the Rules, 2013. It would also be clear that a “quarry lease” is about full exploitation of a minor mineral right from searching for it through its excavation and mining to its transportation and includes

such operations as, mining, quarrying, boring, digging, searching for, winning and transporting; while a “quarry permit” is about obtaining a mined minor mineral and includes only limited operations like extraction and removal of the minor mineral.

23. A further consideration of the relevant provisions made in Rule, 2013 shows that the subject of grant of ‘quarry lease’ has been dealt with in Chapter II of the Rules, 2013 and the relevant provision for the purpose of these petitions is to be found in Clause (f) of Rule 11 (5) about which, we have already made detailed discussion in the earlier paragraph. Considering the requirements stated in Rule 11, in particular the one prescribed in clause (f) of sub-rule (5) of Rule 11, we find that prior submission of environmental clearance certificate along with the application made for grant of ‘quarry lease’ is a *sine qua non* of the grant of a quarry lease. Without submission of this certificate and so also the other documents listed in Rule 11 (5), no quarry lease can be granted by the Government to the interested person. Chapter II, however, nowhere refers to grant of a quarry permit as defined in Rule 2 (t). In fact, the definition of quarry permit itself indicates that it is something which is granted for limited operations under Chapter IV of Rules, 2013. This would necessitate us to

examine the relevant Rules enabling the State Government to grant a quarry permit. The Rules as contained in Rules 59 and 61 being relevant are reproduced as under:

“Rule 59 :Grant of Short term permits for minor minerals:

*(1) Notwithstanding anything contained in the foregoing rules, the Competent Officer, on an application made to him may grant a quarry permit to any person to extract or remove from any specified land within the limits of his jurisdiction any minor mineral not exceeding in quantity as mentioned under any one permit on payment of advance royalties * [at the rate specified in Schedule I] and on such rents and fees accessible for such extraction;*

Provided that, no permits shall be granted in case of any specified minor mineral without prior approval of the Director.

(2) The Competent Officer shall grant permit for specific time and specific volume.

(3)The Competent Officer may refuse to grant such permit for reasons to be recorded in writing.

Substituted for the words “calculated at the rate specified by the Government, from time to time, by

Notification No.Gaukhani.10/1012/C.R.603/kh, dated 11.05.2015”.

“Rule 61 : Application for quarry permits.

(1) An application for quarry permits shall be made in Form-P to the Competent Officer and shall contain the following particulars,

(a) Name, address, profession, nationality of the applicant.

(b) Name and quantity of the minor mineral for which the permit is required.

(c) Description of land, such as location, survey number from which the minor mineral is to be extracted.

(2) Every application for quarry permit shall be accompanied by the certified true copies of relevant extracts of the record of rights in respect of lands from where the applicant proposes to extract the mineral.

(3) The application shall be accompanied with the consent letter from the occupant of land in case land is belonging to individual.

(4) Every such application shall be affixed with court-fee stamp of rupees ten”.

24. It can be seen from the above referred Rules that there is no stipulation made therein regarding prior submission of environmental clearance certificate issued by the competent authority. They also show that the permit granted for extraction and removal of minor minerals is of short term and is restricted to the specified land with ceiling put on the quantity of minerals to be extracted and removed and is also confined to specific time and volume. It can be further seen that unlike Rule 11 (5), Rule 61, which is about the manner in which the application for quarry permit is to be made and the documents to be submitted along with the application, does not specify the requirement of submission of environmental clearance certificate along with application made in terms of Rule 61.

25. Thus, the discussion so far made would show that the rule making authority has made a distinction between “quarry lease” and “quarry permit” and the distinction shows that while “quarry lease” is for a longer period time, with wider scope of operations, the “quarry permit” is for a very short and temporary period of time, is confined to limited operations and is intended to achieve the object of urgent and immediate need of minor minerals for various developmental works by striking a balance between the need of protection of

environment and the need for undertaking developmental works which are in larger public interest. For grant of “quarry permit” under Rule 59, there is another distinguishing feature from that of “quarry lease” granted under Chapter II of the Rules, 2013, and it is that there is no requirement of prior submission of environmental clearance certificate. This distinguishing feature of “quarry permit” in particular, we must say, has rational and proximate relation with the purpose for which a “quarry permit” is granted, the purpose of obtaining an already mined mineral and serves the object of meeting an urgent and immediate need of the minor mineral for various developmental works. When an already mined mineral is to be extracted and removed from a limited area and in specific volume and for specific time, the rationale behind no requirement of prior submission of environmental clearance certificate would be one of sustainable development where environment and development both go hand in hand. This conclusion answers the main question involved here and, we do answer accordingly.

26. Coming back to the Rules, 2013, we may add here that the Rules, 2013 which have been framed in compliance with the directions of the Apex Court in the case of *Deepak Kumar* (supra) have not been questioned

for their vires and validity so far. That means, the Rules, 2013 govern the subject of exploitation, extraction and removal of minor minerals by providing a detailed regulatory mechanism. These Rules being in the nature of subordinate legislation have the force of law and would prevail upon any executive instruction, which is contrary to any of the provisions made in the Rules. It also means that by an executive diktat, the State Government or any of its officers cannot make any attempt to supersede these Rules. The only permissible act that can be done by the State Government is that of filling up of the gaps left in the subordinate Legislation by issuing necessary executive instructions. A coordinate bench of this Court in the case of *Rashtriya Shikshan Sangh* (supra) has held that the power of the State Government to issue executive directions is confined to filling up of the gaps or covering the area which otherwise has not been covered by existing statutory Rules and such instructions or orders must be subservient to the statutory Rules. The view so expressed follows the law settled in this regard by the Supreme Court in the cases of *R.N. Nagarajan Vs. State of Mysore*, AIR 1966 SC 1942 and *Ram Javva Kapoor Vs. State of Punjab*, AIR 1955 SC 549. The relevant observations made in the case of *Rashtriya Shikshan*

Sangh (supra), as they appear in paragraph 14, are reproduced thus:

“14. The power of the State Government to issue executive directions is confined to filling up the gaps or covering the area which otherwise has not been covered by the existing statutory Rules, and such instructions or orders must be subservient to the statutory Rules. The executive power of the State under Article 162 of the Constitution of India is co-extensive with the legislative power, and when the field of law is occupied by a Legislative Act, the exercise of executive power is not available. The Government cannot supersede statutory Rules by administrative instructions. Still, if the Rules are silent on any particular point, the Government can fill the gaps by framing Rules and issuing instructions not inconsistent with the already - framed Rules. In *R.N.Nagarajan v. State of Mysore*, AIR 1966 SC 1942 the Supreme Court has observed that it is necessary to mention that if there is a statutory rule or an Act on the matter, the executive must abide by that Act or Rule and it cannot in exercise of the executive power under Article 162 the Constitution ignore or act contrary to that Rule. A Constitution Bench of the Supreme

Court in *Ram Javya Kapoor v. State of Punjab*, AIR 1955 SC 549, held :

“The State in exercise of its executive powers is charged with the responsibility and duty of carrying on the general administration of the State so long as the State Government does not go against the provisions of the Constitution or any law the width and amplitude of its executive powers cannot be circumscribed. If there is no enactment covering a particular aspect certainly the Government can carry on the administration by issuing administrative directions or instructions until the Legislature makes a law in that behalf”.

27. In the cases before us, there was a communication issued by the State of Maharashtra on 12.12.2013 which stated that in case of grant of short term quarry permits under Chapter IV of Rules, 2013, there would be no need for prior submission of environmental clearance certificate. This communication was not inconsistent with or contrary to Rules 59 and 61 of the Rules, 2013, rather, it was clarificatory in nature. However, this is not so in case of communication dated 24th March,

2022, which is impugned in all these petitions. By this communication issued by respondent no.6, it is directed that no quarry permit referred to in the communication dated 12.12.2013 be issued without prior submission of environmental clearance certificate in view of the directions given by the National Green Tribunal in the case of *Shri Rajiv Babasaheb Waman and others Vs. Ministry of Environment, Forest and Climate Change and others in OA 68/2020*. The direction so given afresh by an executive instruction contained in this communication, in our considered view, cannot and would not prevail over the Rules 59 and 61 of the Rules, 2013, for the reasons stated in the ensuing paragraphs.

28. We have already seen that there is no requirement of Rules 59 and 61 that environmental clearance certificate be submitted along with the application made for grant of a quarry permit and, therefore, the direction given through an executive order that for grant of a quarry permit, environmental clearance certificate be submitted, clearly runs contrary to the provisions made in Rules 59 and 61. Further, we have already seen that Rules, 2013 govern the subject of “quarry leases” and “quarry permits” prescribing different requirements for their grants. When these provisions of Rules, 2013 govern the field, there can be no executive clarification or communication issued,

which is inconsistent with or contrary to these Rules, as noted in the case of *Rashtriya Shikshan Sangh* (supra). Then, in the case of *Shri Rajiv Babasaheb Waman* (supra), it appears, the application of the Rules, 2013 to the subject of “quarry leases” and “quarry permits” was not brought to the notice of the National Green Tribunal and what was brought to its notice was only the office communication dated 12.12.2013. This communication being in the nature of executive instruction and not having any force of law was found foul of the directions contained in the case of *Deepak Kumar* (supra), by the NGT, and not without any reasons. The NGT was not aware of Rules, 2013 having been framed and governing the field. Had the fact of framing of Rules, 2013 been brought to the notice of the NGT, perhaps the things would have been different. Anyway, the judgment of the NGT has now been stayed in relation to appellants therein by the Supreme Court. But, the fact remains that what was not considered by National Green Tribunal was that there was in place a new regulatory mechanism governing the subjects of quarry leases and quarry permits, which did not require, for, granting a quarry permit, any environmental clearance certificate though it required one for granting a quarry lease under the Rules, 2013. The office communication dated 12.12.2013, we must say, only clarifies what is already prescribed in Rules 59 and 61 of the Rules, 2013 governing the subject of grant of quarry permits and,

therefore, it continues to hold the field. These facts were not noticed by the National Green Tribunal and that was the reason why following observations came in paragraph 8 of its judgment in the case of *Shri Rajiv Babasaheb Waman* (supra) which read thus:

“8.....It is duty of the State of Maharashtra to issue clarification in view of the fact that its circular is rusting in defiance of judgment of the Hon’ble Supreme Court to the detriment of environment and rule of law. The Chief Secretary, Maharashtra may ensure further remedial action in this regard”.

29. It is obvious that the direction so given by the National Green Tribunal was only in the context of the office communication dated 12.12.2013 and not upon consideration of the requirements of relevant Rules i.e. Rules 59 and 61 governing the subject of quarry permits. This direction, therefore, would not come in the way of authorities considering the issue of grant of quarry permits in terms of Rule 59 read with Rule 61 of the Rules, 2013. Even otherwise, if the direction given by the National Green Tribunal was to be implemented by the Chief Secretary, he ought to have considered the real impact of the relevant words which required him to

ensure “*further remedial action in the matter*”. It would then mean that doing something which was in the nature of suitably amending the Rules 59 and 61 of Rules, 2013 was required, if thought fit, which was not done.

30. The above discussion would lead us to find that no executive instruction which is contrary to the requirements of Rules 59 and 61 of Rules, 2013 could have been issued by the State Government, as it has done vide its impugned communication dated 24th March, 2022, in the name of issuing of a clarification. If any clarification was to be issued, it must have been by following the well settled principles of law stated in the judgment of the coordinate Division Bench of this Court in the case of *Rashtriya Shikshan Sangh* (supra) and by suitably amending Rules 59 and 61 of Rules, 2013, if thought fit. The direction issued by National Green Tribunal appears to have been misconstrued by the State Government and the result is of issuance of the impugned communication in the name of *clarification* which is contrary to the Rules of 59 and 61 of Rules, 2013 and which violates the settled principles of law. Such a communication, therefore, cannot stand the scrutiny of law and is required to be quashed and set aside as being illegal.

31. Shri Bhandarkar, learned counsel has referred to the Notification dated 20th March, 2020 in order to support his contention that the short term permits for extraction of minor minerals have been exempted from the requirement of submission of environmental clearance certificate. He has placed reliance upon Item VIII in Appendix IV to the Notification dated 20th March, 2020. Item VIII relates to traditional occupational work of sand by Vanjara and Oads in Gujarat. It is, therefore, clear that this notification does not support the argument that even in the notification dated 20th March, 2020 issued by the Ministry of Environment of Forest and Climate Change, there is an exemption granted to a quarry permit from the requirement of submission of prior environmental clearance. Be that as it may, we have already found that the impugned communication dated 24th March, 2022 is bad in law, for the reasons stated earlier.

32. We thus find that there is substance in these petitions and they deserve to be allowed.

33. The petitions are allowed and the impugned communication dated 24th March, 2022 is hereby quashed and set aside.

34. Rule is made absolute in the above terms.

No costs.

(ANIL L. PANSARE, J.)

(SUNIL B. SHUKRE, J.)

Ambulkar, PS



ITEM NO.23

COURT NO.12

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL)

Diary No(s). 875/2023

(Arising out of impugned final judgment and order dated 14-10-2022 in WP No. 2153/2022 passed by the High Court of Judicature at Bombay At Nagpur)

GO GREEN FOUNDATION

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

Respondent(s)

(IA No.16396/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.16394/2023-PERMISSION TO FILE PETITION (SLP/TP/WP/..))

Date : 31-01-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Mr. Himanshu Chaubey, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Application for permission to file Special Leave Petition is allowed.

Issue notice to the respondents, returnable in four weeks.

Permission to serve the Standing Counsel for the State.

(VIJAY KUMAR)
COURT MASTER (SH)



(DIPTI KHURANA)
ASSISTANT REGISTRAR

ANNEXURE - R-14

~~TYPE OF WORK + OFFICE : M.S. No. 19, 2013/ 28, 1935~~

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REVENUE AND FORESTS DEPARTMENT
World Trade Centre, Cuffe Parde, Mumbai 400 005.
Dated the 18th July 2013.

NOTIFICATION

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

No. Gaukhani-10/0812/C.R. 613/kh.--In exercise of powers conferred by section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules, for regulating the extraction of Minor Minerals namely:-

CHAPTER-I**GENERAL**

1. **Short title and commencement-** (1) These rules may be called the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013.
(2) These rules shall come into effect from the date as may be specified by the Government in the Official Gazette.
2. **Definitions-**In these rules, unless the context requires otherwise,
 - (a) 'Act' means the Mines and Minerals (Regulations and Development) Act, 1957 (67 of 1957);
 - (b) "Appellate Authority" means the Government or any authority vested with such powers under these rules or any other authority empowered by the Government to perform such functions;
 - (c) "Assessee" means a person or a lessee holding a mining lease or a short term permit and includes any other person who has excavated, removed or used or is excavating, removing, processing or using minor mineral or minerals;
 - (d) "Assessing Authority" means Collector or Additional Collector or Sub Divisional Officer or Tahsildar or District Mining Officer or Executive Engineer;
 - (e) "Assessment Year" means the period beginning from the first day of April and ending on the thirty first day of March of the following year;
 - (f) "Brick earth" means earth used for making bricks, Kavelus and earthen pots and shall include all types of earth used for construction of dams, buildings, canals, roads, rail embankments and other identical purposes;
 - (g) "Building stone" means any rock or mineral which is used as building or construction material and includes such Minerals as specified in the Schedule appended to the Act;
 - (h) "Competent Authority" means,-
 - (i) for the purpose of Chapter IV of these rules,-
 - (a) in the case of quarries situated on the lands owned by the Public Works Department

and Water Resources Department of Government, the Executive Engineer of the concerned Division in case of the permits upto a maximum of 25,000 brass for the use of Departmental work only;

(b) the Tahsildar, where minor minerals are to be extracted and removed from any land within the limits of their respective jurisdiction in quantities not exceeding 500 brass;

(c) Sub-Divisional Officer of Revenue Department, where minor minerals are to be extracted and removed from any land within the limits of their respective jurisdiction in quantities not exceeding 2000 brass;

(d) the Collector or Additional Collector of the District where minor minerals are to be extracted and removed from any land within that district, in quantities not exceeding 25000 Brass;

(ii) For the purpose of auction of minor mineral, Competent Officer means the Collector or Additional Collector; and

(iii) any other officer appointed by the Government by notification in the Official Gazette;

(i) "Directorate" means the Directorate of Geology and Mining, in the State of Maharashtra.

(j) "dead rent" means the minimum guaranteed amount of royalty per year payable as per rules of agreement under a mining lease;

(k) "Excavation" means digging and or collecting of minor minerals from any land or nala or rive or creek;

(l) "Forms" means forms appended to these rules;

(m) "Government" means the Government of Maharashtra;

(n) "Minor Minerals" means the minor minerals declared from time to time by the Central Government by notification in the *Official Gazette* under the Act;

(o) "Royalty" means the charge payable to the Government in respect of the ore or mineral excavated, removed or utilised from any land;

(p) "section" means a section of the Act;

(q) "specified minor mineral" means limestone, limeshell, bentonite, fuller's earth or such other mineral as may be specified by the Central Government in the *Official Gazette*, from time to time, and the threshold value of the minor mineral specified by notification issued by Indian Bureau of Mines;

(r) "quarry lease" means a lease to mine, quarry, bore, dig, search for, win, work and transport or carry away any minor mineral specified therein;

(s) "quarry license or lease" means a license granted under these rules wherein a licensee is required to pay fixed annual license fee exclusive or inclusive of royalty, as the case may be;

(t) "quarry permit" means a permit granted under Chapter-IV of these rules to extract and

remove any minor mineral in specified quantities and specified time;

(u) the words and expressions used in these rules but not defined hereinabove shall have the same meanings as respectively assigned to them under the Act.

CHAPTER – II

PROCEDURE FOR GRANT OF QUARRY LEASE

3. Prospecting to precede mining operation . - (a) No lease shall be granted by the State Government unless it is satisfied that there is evidence to show that the area for which the lease is applied for has been prospected earlier for minor minerals or the existence of minor minerals therein has been established otherwise.

(b) No mining lease shall be granted unless the District Mining Officer confirms the existence of minor mineral in the applied area. Mining lease shall be granted directly if the District Mining Officer reports that there is no need for prospecting for minor mineral in the area in question.

4. Period for which prospecting license may be granted or renewed . - The period for which a prospecting license may be granted shall not exceed two years.

5. Scheme of prospecting . - (1) Every holder of a prospecting license for minor mineral shall submit to the State Government or any person authorised in this behalf by the Government within a period of sixty days from the date of execution of the prospecting license a scheme of prospecting indicating the manner in which he proposes to carry out the prospecting operation in the area covered by the license and the scheme shall incorporate the following, namely:-

- (a) Particulars of the area;
- (b) The scale of the plan and the area of geological mapping;
- (c) The number of pits, trenches, and bore holes which he proposes to put in the area and the locations thereof;
- (d) The particulars of the machinery to be used;
- (e) The details of exploratory mining to be undertaken;
- (f) The number of samples proposed to be drawn and tested;
- (g) Baseline information of prevailing environmental conditions before the beginning of the prospecting operations;
- (h) Any other matter relevant for the preparation of a scheme of prospecting, as directed by the State Government or any person so authorised, from time to time by a general or special order.

(2) The prospecting scheme under sub-rule (1) shall be prepared by a recognised person or a geologist or a mining engineer employed under the rule.

6. Modification of scheme of prospecting . - (1) A prospecting scheme prepared and submitted

executed within the aforesaid period, the Competent Officer may revoke the order of such grant of lease:

Provided that, where the Competent Officer is satisfied that the applicant is not responsible for the delay in the execution of the lease Deed, he may permit the execution of lease Deed after the expiry of the aforesaid period of sixty days.

(4) The lease Deed shall be registered with the concerned Registrar of Stamp Duties.

15. Disposal of application for quarry lease.-(1) The application for quarry lease shall be disposed of within a period of ninety days from the date of receipt of complete application for grant of lease.

(2) The application for renewal of quarry lease shall be disposed of within a period of sixty days from the date of receipt of complete application for renewal of lease.

(3) If an application for renewal of quarry lease has been made within the prescribed period but is not disposed of before the date of expiry of the period, the lease shall be deemed to have been extended by a further period of three months or till such date on which the applicant is informed about the refusal to grant the renewal of the lease, whichever is earlier.

16. Refund of application fee.- If the Competent Officer refuses to grant the quarry lease applied for or if the applicant refuses to accept the lease on account of any special condition imposed therein under rule 46, the fee shall be treated as processing fee and will not be refunded:

Provided that, if the applicant refuses to accept the lease for reasons other than those referred to above, withdraws the application or fails to furnish the requisite information or to execute a lease deed in accordance with the provision of sub-rule (3) of rule 14, the application fee shall not be refunded.

17. Intimation of refusal etc. to be given.- When an application for a quarry lease is refused by the Competent Officer or is granted for less area than for which it was applied for, he shall communicate the reasons therefor in writing to the applicant for such refusal or reduction of area.

18. Period for which lease may be granted or renewed.-(1) The period for which a quarry lease may be granted shall be of five years without approval of the Government and ten years with the prior approval of the Government:

Provided that, the maximum period for which any such lease may be granted shall not be more than twenty years.

(2) A lease may be renewed at the option of the lessee for a period not exceeding the duration of the original lease.

(3) Notwithstanding anything contained in sub-rule (2), if the Government is of the opinion that in the interest of development of minor minerals, it is necessary to do so, it may, for reasons to be recorded in writing, authorise the renewal of a lease for a further period or periods not exceeding five years in each case.

19. Minimum and maximum area for grant of a quarry lease.-The minimum area that may be granted under a quarry lease shall not be less than,-

(a) one hectare, in respect of small deposits (not fragmented portions of larger ones), shallow in nature, isolated and not exceeding more than 200 meters in strike length. These deposits are small by virtue of either origin or mode of emplacement or dislocation due to geological disturbances. Small deposits shall also include float deposits (transported) formed due to mechanical weathering and deposition, alluvial or alluvial buried or otherwise, which generally have peculiar configuration;

(b) two hectares in respect of beach sands or placers (Beach sands or placers are mono or multi mineral concentrations) including the dunes occurring on and off the coastal shore line. These deposits are the products of ebb and flow of tides, waves and inshore current, and at places semi-consolidated to consolidate in nature:

Provided that, in case of renewal of mining lease, the restrictions of minimum area for grant of mining lease shall not be applicable:

Provided further that, the Government, if satisfied on the basis of proposed production level, geological or topographical conditions, may, for reasons to be recorded in writing, grant quarry lease not exceeding fifty hectare:

Provided also that, the Government may, after recording reasons in writing, grant quarry lease of the area less than minimum area mentioned above in case of artisan and traditional workers.

20. Mining plan as a pre-requisite to the grant of quarry lease.- No lease shall be granted or renewed by the Government unless there is a mining plan duly approved by the Government or any person authorised in this behalf by it for the development of the minor minerals deposit in the area concerned.

21. Mining plan to be prepared by a recognised qualified person.- No mining plan shall be approved unless it is prepared by a qualified person recognised in this behalf by the Government or any person authorised by the Government or by a recognised person under rule 22B of the Mineral Concession Rules, 1960.

22. Grant of recognition by Government.-(1) Any person possessing the qualifications and experience required under sub-rule (2) of rule 22B of Mineral Concession Rules 1960, may apply for such recognition to the Competent Officer designated by the Government for this purpose.

(2) The Competent Officer after making such enquiry as it deems fit, may grant or refuse to grant recognition. Where recognition is refused the Competent Officer shall record the reasons in writing and communicate the same to the applicant.

(3) A recognition shall be granted for an initial period of five years and may be renewed for further periods not exceeding five years at a time:

Provided that, the Competent Officer may refuse to renew recognition for reasons to be

recorded in writing after giving an opportunity of being heard to the person concerned.

23. Approval and submission of Mining Plan.- On receipt of the application for grant of mining lease for undertaking mining operations for minor minerals, the Government shall take decision to grant precise area for the said purpose and communicate such decision to the applicant and on receipt of the communication from the Government of the precise area to be granted, the applicant shall submit a mining plan within a period of three months from the date on which such communication is received or such further period as may be allowed by the Government for the approval. The said mining plan shall incorporate,-

- (i) (a) the map of the precise area showing the nature and extent of the minor minerals body ;
- (b) spot or spots where the excavation to be done in the first five years plan period and its extent ;
- (c) a detailed cross-section and detailed plan of spots of excavation based on prospecting data gathered by the applicant ;
- (d) a tentative scheme of mining for the second five years plan period of the lease;
- (ii) details of the geology and lithology of the precise area including minor mineral reserves in the area;
- (iii) the extent of manual mining or mining by use of machinery and mechanical devices on the precise area;
- (iv) the map of the precise area showing natural water courses, limits of reserved and other forest areas and density of trees, if any, assessment of impact of mining activity on forest land surface and environment including air and water pollution; details of scheme for restoration of the area by a forestations, land reclamation, use of pollution control devices and of such other measures under Mine Closure Plan – Progressive and Final Mine Closure Plan;
- (v) annual program and plan for excavation on the precise area from (year to year) for five years;
- (vi) as per provisions of Notification of Ministry of Environment and Forest dated the 14th September 2006 prior Environment Clearance will be required depending upon the mining lease area.
- (vii) any other matter which the Government may require the applicant to provide in the mining plan.

MINING OPERATIONS

24. Mining Plan as a pre-requisite to the commencement of mining operations.-(1) No person shall commence mining operations for minor minerals in any area except in accordance with a mining plan approved under these rules.

(2) The Government or any person authorised in this behalf by the Government, may

require the holder of a lease to make such modifications in the mining plan referred to in sub-rule (1) or impose such conditions as it considers necessary by an order in writing if such modifications or imposition of conditions are considered necessary in the light of the experience of operation of mining plan or in view of the change in the technological development.

(3) A holder of a lease, desirous of seeking modifications in the approved mining plan as are considered expedient, in the interest of safe and scientific mining, conservation of minor minerals and for the protection of environment, shall apply to the Government or any person authorised in this behalf by the Government setting forth the intended modifications and explaining the reasons for the same.

(4) The Government or any person authorised in this behalf by the Government may approve the modifications under sub-rule (3) or approve with such alterations as it may consider expedient.

25. Mine Closure Plan.— Every mine shall have Mine Closure Plan which shall be of two types, —

- (i) Progressive Mine Closure Plan; and
- (ii) Final Mine Closure Plan.

26. Submission of Progressive Mine Closure Plan.—(1) The lessee, agent, manager or mining engineer shall, in case of fresh grant or renewal of mining lease, submit a Progressive Mine Closure Plan as a component of Mining Plan to the officer authorised by the Government in this behalf.

(2) The lessee, agent, manager or mining engineer shall, in case of existing mining lease submit a Progressive Mine Closure Plan to the officer authorised by the Government in this behalf, for approval within a period of one year from the date of commencement of these rules.

(3) The lessee, agent, manager or mining engineer shall review the progressive mine closure plan every five years from the date of its approval in case of existing mine or from the date of opening of the mine in case of fresh grant or from the date of renewal of mining lease, as the case may be, and shall submit to the officer authorised by the Government in this behalf, for its approval.

(4) The officer authorized by the Government in this behalf, shall convey his approval or refusal of the Progressive Mine Closure Plan within a period of ninety days of the date of its receipt.

(5) If approval or refusal of the Progressive Mine Closure Plan is not conveyed to the owner, agent, manager or mining engineer of the mining lease within the period as specified in sub-rule (4), the Progressive Mine Closure Plan shall be deemed to have been provisionally approved, and such approval shall be subject to the final decision whenever communicated.

27. Submission of Final Mine Closure Plan.—(1) The lessee, agent, manager or mining engineer shall submit a final mine closure plan to the officer authorised by the Government in this behalf, for the approval one year prior to the proposed closure of the mine.

(2) The officer authorised by the Government in this behalf, shall convey his approval or refusal of the final Mine Closure Plan within a period of ninety days of the date of its receipt to the owner, agent, manager or mining engineer.

(3) If approval or refusal of the final Mine Closure Plan is not conveyed to the owner, agent, manager or mining engineer of the mining lease within the period as specified in sub-rule (2), the final Mine Closure Plan shall be deemed to have been provisionally approved and such approval shall be subject to final decision whenever communicated.

28. Modification of Mine Closure Plan.- (1) The holder of a mining lease desirous of seeking modifications in the approved Mine Closure Plan, shall submit to the officer authorised by the Government in this behalf, for approval setting forth the intended modifications and explaining the reasons for such modifications.

(2) The officer authorised by the Government in this behalf, may approve the modifications as submitted under sub-rule (1) or approve with such alterations as he may consider expedient.

29. Responsibility of holder of quarry lease.-(1) The lessee, agent, manager or mining engineer shall have the responsibility to ensure that the protective measures contained in the Mine Closure Plan referred to in this rule including reclamation and rehabilitation work have been carried out in accordance with the approved Mine Closure Plan or with such modifications as approved by the officer authorised by the Government in this behalf under this rule.

(2) The lessee, agent, manager or mining engineer shall submit to the officer authorised by the Government in this behalf, a yearly report before the 1st July of every year setting forth the extent of protective and rehabilitative works carried out as envisaged in the approved Mine Closure Plan, and if there is any deviation, reasons thereof.

30. Financial assurance.- (1) Financial assurance has to be furnished by every leaseholder. The amount of financial assurance shall be rupees fifty thousand per hectare of the mining lease area put to use for mining and allied activities. However, the minimum amount of financial assurance to be furnished in any of the forms referred to in sub-rule (2) shall be rupees one lakh:

Provided that, a leaseholder shall be required to enhance the amount of financial assurance with the increase in the area of mining and allied activities:

Provided further that, where a leaseholder undertakes reclamation and rehabilitation measures as part of the progressive closure of mine, the amount so spent shall be reckoned as sum of the financial assurance already spent by the leaseholder and the total amount of financial assurance, to be furnished by the lessee, shall be reduced to that extent.

(2) The financial assurance shall be submitted in one of the following forms to the officer authorised by the Government in this behalf, or any amendment to it :

- (a) Letter of Credit from any Scheduled Bank;
- (b) Performance or surety bond;

- (c) Trust Fund build up through annual contributions from the revenue generated by mine and based on expected amount sum required for abandonment of mine; or
- (d) any other form of security or any other guarantees acceptable to the officer.

(3) The lessee shall submit the financial assurance to the officer authorised by the Government in this behalf, before executing the mining lease Deeds. In case of an existing mining lease, the lessee shall submit the financial assurance along with the Progressive Mine Closure Plan.

(4) Release of financial assurance shall be effective upon the notice given by the lessee for the satisfactory compliance of the provisions contained in the Mine Closure Plan and certified by the officer authorised by the Government in this behalf.

(5) If the officer authorised by the Government in this behalf, has reasonable grounds for believing that the protective, reclamation and rehabilitation measures as envisaged in the approved Mine Closure Plan in respect of which financial assurance was given has not been or will not be carried out in accordance with the Mine Closure Plan, either fully or partially, the officer authorised by the Government in this behalf, shall give the lessee a written notice of his intention to issue the orders for forfeiting the sum assured at least thirty days prior to the date of the order to be issued.

(6) Within thirty days of the receipt of notice referred to in sub-rule (5), if no satisfactory reply has been received in writing from the lessee, the officer authorised by the Government in this behalf, shall pass an order for forfeiting the surety amount and a copy of such order shall be endorsed to the Government.

(7) Upon the issuance of order by the officer authorised by the Government in this behalf, the Government may realize any letter of credit or bond or any other surety, guarantee provided or obtained as financial assurance for the purpose of performance of protective, reclamation, rehabilitation measures and shall carry out those measures, or appoint an agent to do so.

31. Mining Plan to be submitted by existing lessee.- (1) Where mining operations for minor minerals have been undertaken before the commencement of these rules without an approved Mining Plan, the holder of such lease shall submit a mining plan within a period of one year from the date of commencement of these rules, to the Government or any person authorised in this behalf by the Government for its approval.

(2) If a holder of a lease has not been able to submit the Mining Plan within the specified time for reasons beyond his control, he may apply for extension of time giving reasons to the Government or any person authorised in this behalf by the Government.

(3) The Government or any person authorised in this behalf by the Government on receiving an application made under sub-rule (2) above, may, on being satisfied, extend the period for submission of the Mining Plan for a period which may not exceed two years.

(4) The Government or any person authorised in this behalf by the Government may approve

the Mining Plan submitted by the lessee under sub-rule (1) or any required modifications to be carried out in the Mining Plan and the lessee shall carry out such modifications and resubmit the modified mining plan for approval of the Government or the person so authorized, as the case may be.

(5) The Government or any person authorised in this behalf by the Government shall, within a period of ninety days from the date of receipt of the Mining Plan or the modified plan convey its or his approval or disapproval to the applicant and in case of disapproval it or he shall also convey the reasons for disapproving the said Mining Plan or the modified Mining Plan.

(6) If no decision is conveyed within the period stipulated under sub-rule (5), the Mining Plan or the modified Mining Plan, as the case may be, shall be deemed to have been provisionally approved and such approval shall be subject to the final decision whenever communicated.

(7) The Mining Plan submitted under sub-rule (1) shall be prepared by a recognised qualified person.

32. Review of Mining Plan.-(1) Every Mining Plan duly approved under these rules shall be valid for the entire duration of the lease.

(2) The lessee, agent, mining engineer or manager of every mine or quarry shall review the Mining Plan as prescribed under sub-rule (1) and submit a scheme of mining for the next five years of the lease to the Government or any person authorised in this behalf by the Government for approval.

(3) The scheme of mining shall be submitted to the Government or any person authorised in this behalf by the Government at least one hundred twenty days before the expiry of the five years period for which it was approved on the last occasion.

(4) The Government or any person authorised in this behalf by the Government shall convey its or his approval or refusal to the scheme of mining within ninety days of the date of its receipt.

(5) If approval or refusal of the scheme of mining is not conveyed to the holder of the lease within the stipulated period, the scheme of mining shall be deemed to have been provisionally approved and such approval shall be subject to final decision whenever communicated.

(6) The provisions of rule 31 shall apply to the scheme of mining in the same way as they are applicable to the mining plan.

(7) Every scheme of mining submitted under sub-rule (2) shall be prepared by a recognized qualified person or a person under rule 21.

33. Mining operations to be in accordance with Mining Plan.-(1) Every holder of a lease shall carry out mining operations for minor minerals in accordance with the Mining Plan with such conditions as may have been specified under sub-rule (2) of rule 24 or with such modifications, if any, as permitted under sub-rule (3) of rule 24 or the mining plan or the scheme approved under rule 23 or 31 or 32, as the case may be.

(2) If the mining operations are not carried out in accordance with the Mining Plan as referred to under sub-rule (1), the Government or any person authorised in this behalf by the Government may order suspension of all or any of the mining operations and permit continuance of only such operations as may be necessary to restore the conditions in the quarry as envisaged under the said Mining Plan.

34. Notice for opening of a mine and intimation of existence of a mine.- The owner, agent, mining engineer or manager of every minor mineral quarry shall send to the Government or any person authorised in this behalf by the Government an intimation in **Form-F** of the opening of a mine so as to reach them within fifteen days of such opening or of the existence of a mine at the time of the commencement of these rules within ninety days from such commencement, as the case may be.

35. Abandonment or surrender of quarry.-(1) The lessee, agent, mining engineer or manager of every minor mineral quarry shall not abandon or surrender a minor mineral quarry or a part of such quarry during the subsistence of the lease except with prior permission in writing of the Government or any person authorised in this behalf by the Government.

(2) Notice for abandonment or surrender of a minor mineral quarry or a part thereof shall be given in **Form-G** and shall be accompanied by plans and sections on a scale of not less than 1 cm=10 meters showing accurately the work done in such quarry upto the date of submission of the notice.

(3) The Government or any person authorised in this behalf by the Government may by an order in writing prohibit abandonment or refuse surrender or allow the abandonment or surrender of a minor mineral quarry or a part thereof with such conditions as he may specify in the order.

(4) Where an abandonment of a minor mineral quarry or part thereof takes place as a result of the occurrence of a natural calamity beyond the control of the owner, agent, mining engineer or manager of a such quarry, or the lease is terminated in compliance of any order or directions issued by any statutory authority established under any law for the time being in force or any tribunal or a court, an intimation shall be sent to the Government or any person authorised in this behalf by the Government within a period of twenty-four hours of such abandonment or termination and the notice of abandonment as provided in sub-rule (2) shall be submitted to the Government or any person authorised in this behalf by the Government within a period of fifteen days of such abandonment or termination.

36. Notice of temporary discontinuance of work in quarry.-The lessee, agent, mining engineer or manager of every minor mineral quarry shall send to the Government or any person authorised in this behalf by the Government a notice in **Form-H** when the work in such quarry is discontinued for a period exceeding sixty days so as to reach them within seventy-five days from the date of such temporary discontinuance.

37. **Intimation of reopening of a quarry.**- The lessee, agent, mining engineer or manager of every minor mineral quarry shall send to the Government or any person authorised in this behalf by the Government an intimation in **Form-I** of reopening of such quarry after temporary discontinuance so as to reach them within fifteen days from the date of such reopening.

38. **Prospecting and mining operations.**-The prospecting and mining operations shall be carried out in such a manner so as to ensure systematic development and conservation of minor mineral deposits and protection of environment.

39. **Register of application.**-A register of application for quarry lease shall be maintained by the Competent Officer in **Form-J**.

40. **Demarcation of area lease.**- Where a quarry lease is granted by a Competent Authority arrangement shall be made by the Competent Officer at the expense of the lessee for the demarcation of the area granted under the lease, before executing the lease Deed.

41. **Register of quarry lease granted.**- A register of quarry lease granted shall be maintained by the Competent Officer in **Form-K**.

42. **Registers to be kept open for inspection.**- The registers maintained by the Competent Officer under rules 39 and 41 shall be open to inspection by any person on payment of a fee of rupees twenty-five for the first hour and rupees ten for every subsequent hour or part thereof.

43. **Boundaries below surface.**- The boundaries of the area covered by a quarry lease shall run vertically downwards below the surface towards the center of the Earth.

44. **Payment of royalty, dead rent etc..**- When the quarry lease is renewed, royalty, dead rent, surface rent and other dues with lessee thereon shall be charged at the rates in force, from time to time.

45. **Transfer of quarry lease.**- (1) Except with previous consent in writing of the Competent Officer, the lessee shall not,-

(a) assign, sub-let, mortgage or in any other manner, transfer, the quarry lease or any right, title or interest therein, or

(b) enter into, or make any arrangement, contract or understanding whereby the lessee may be financed to a substantial extent or may be substantially controlled by, any person or body of persons other than the lessee.

(2) The lessee may, with the previous consent in writing of the Competent Officer, transfer his lease or any right title or interest therein, to any person on payment of a fee of rupees ten thousand to the Government:

Provided that, if the lease was granted with the approval of the Director (as in the case of

binding on the lessee to make payment of the difference of royalty after final assessment demand from the Competent Officer:

Provided that, the Competent Officer, without prejudice to the provision contained in rules, shall charge simple interest at the rate of fifteen percent per annum, on the delayed payment of royalty and other mining dues from the sixtieth day of the expiry of the date fixed by the Government for payment of such royalty and other mining dues until payment of such royalty and other mining dues is made.

(iv) The lessee shall submit to the Competent Officer and the Director, a quarterly return in **Form-L** for the periods ending on the 30th June, 30th September, 31st December and 31st March in respect of payment of royalty.

(v) The lessee shall also pay for every calendar year of the lease such yearly dead rent as specified by the Government, from time to time, and if the lessees permitted the working of more than one minerals in the same area, shall pay such separate dead rent in respect of each mineral as may be fixed by the Government, from time to time:

Provided that, the dead rent may be revised once in every three years:

Provided further that, the lessee shall be liable to pay the dead rent or royalty whichever is more, but not both, in respect of each minor mineral:

Provided also that, the dead rent shall not be payable for the first three month following the execution of lease.

(vi) The lessee shall also pay for every calendar year, surface rent and cess equal to non-agricultural assessment for the area for which working permission has been granted to him. Period to be calculated prospectively from the date of execution of lease as well as for the lease area for which no working permission has been granted.

(vii) Unless the Competent Officer for sufficient cause permits otherwise, the lessee shall commence quarry operations within three months from the date of execution of the lease and shall transfer, carry them in a proper, skillful and workman like manner so as to ensure the safety of labourers, conservation of minerals etc.:

Provided that, if the Government is of the opinion that it is expedient so to do in the interest of regulation of mines and minerals development, preservation of pollution or to avoid danger to public health or communication or ensure safety of building, monuments or other structure or for such other purpose, as the Government may deem fit, to terminate permanently any quarry lease, after issuing due notice of thirty days to the lessee, terminate or determine such quarry lease in respect of any land:

Provided further that, the Government may after the premature termination of quarry lease, grant quarry lease in favour of another eligible person or such Government company or corporation owned or controlled by Government as it may think fit.

mines and matters affecting safety, health and convenience of his employees, of the public visiting the site and shall respect all existing rights of way, water and other easements vesting in any other person.

(xiv) The lessee shall not carry on or allow to be carried on any quarry operations at any point within a distance of fifty meters, if no blasting is involved, and two hundred meters, if blasting is involved,-

(a) from the boundary of any railway line, unless a written permission of the railway authority concerned is obtained in that behalf;

(b) from the boundary of any reservoir, canal, road, river, *nallah*, irrigation works or public works or buildings, unless a written permission of concerned authority of the Government is obtained in that behalf.

In granting any such permission, the Government may impose such conditions on advice of railway authority or any concerned authority and the lessee shall abide by such conditions.

(xv) The lessee shall keep correct and true accounts of expenses incurred by him on quarry operations and also the accounts showing the quantity and other particulars of all minor minerals obtained, the names of the purchasers, the receipts for money received, and the number of employees present in the quarry and complete plans of the quarry and shall furnish to the Competent Officer, and the Director such information, reports and returns as any of them may require, from time to time, together with representative samples of minerals obtained during the operations and shall submit by the 10th day of every month to those officers, a return in **Form-M** giving the total quantity of material raised in the preceding calendar month and its value.

The lessee shall also furnish to the Competent Officer and the Director, annual return giving the total quantity of material raised in the preceding year and its value in **Form-N** by the 15th of January every year:

Provided that, if the period of the lease expires before the close of a year, the lessee shall also furnish returns for such shorter period.

(xvi) The lessee shall allow any officer authorised by the Government in this behalf or the Competent Officer or any officer authorised competent officer to enter upon any building, excavation or land covered by his lease for the purpose of inspecting the same or for inspecting the accounts plans and record which may be required to produce before such officer. Any such officer may issue such reasonable directions as he may deems fit to prevent wasteful extraction of minerals, and it shall be the duty of the lessee, his agent or manager to carry out such directions with such period as the officer may specify.

(xvii) Where the strengthening or supporting of any part of quarry is necessary for the safety of any railway, reservoir, canal, road or any other public work or structure, the lessee shall cause it to be done to the satisfaction of the concerned railway authority where the safety of the railway is

involved and to the satisfaction of any officer, authorised by Competent Officer for this purpose.

(xviii) If the lessee fails to undertake quarry operations within a period of one hundred eighty days after the date of execution of the lease, or, having commenced quarry operations, has discontinued the same for a continuous period of one hundred eighty days, the lease shall be treated as lapsed on the expiry of the period of one hundred eighty days from the date of execution of the lease or as the case may be, discontinuous of the quarry operation:

Provided that, the Competent Officer may, on an application made by the holder of such lease before its expiry under this sub-rule and on being satisfied that it will not be possible for the holder of the lease, to undertake mining operation or to continue such operations for reasons beyond his control, make an order, subject to such conditions as may be specified in the order, to the effect that such lease shall not lapse:

Provided further that, the Government may on an application submitted by the lessee, within a period of six months from the date of its lapse and on being satisfied that such non- commencement or discontinuance was due to reasons beyond the control of the holder of the lease, revive the lease from such prospective or retrospective date as it thinks fit but not earlier than the date of lapse of the lease:

Provided also that, no quarry lease shall be revived under the aforesaid provisos for not more than twice during the entire period of the lease.

(xix) The lessee shall report all accidents immediately to the District Magistrate, the Superintendent of Police and the Competent Officer, or in case the severity of accident so warrants, the concerned Director of Mines of Safety of Government of India.

(xx) The Government shall be immune from the lessee's claims for the damages on account of any land having been included in this lease which may subsequently be discovered not to have been available for the lease.

(xxi) The lessee or his transferee or assignee shall not erect any building in contravention of the provisions of any law, order or instructions in force relating to the erection of the buildings or in contraventions of any orders issued by any officers or authority competent to issue such orders under any such laws, orders or instructions within whose jurisdiction the leased area is situated.

(xxii) The Government 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.

(xxiii) Right of the State or Central Government or any local authority to construct any road, railway, canal, reservoir or public work or the right of any authority to carry any electric or telephone lines or poles in or over the lands demised under the lease is reserved:

Provided that, before such right is exercised a notice of not less than thirty days shall be given to the lessee and the area utilised for any of the aforesaid purpose shall be excluded from the area under the lease.

(xxiv) The lessee shall immediately submit a report to the Collector, the District Magistrate, the Chief Inspector of Mines, Dhanbad, the Controller General, Indian Bureau of Mines, the Director and Senior Geologist or Geologist, Junior Geologist posted in the area as soon as-

(a) the depth of any opencast excavation measured from its height to the lowest point reaches six meters, or

(b) the explosives are used, and at such time thereafter as the District Magistrate or the Chief Inspector of Mines may direct.

(xxv) The lessee shall allow any Government Department to remove by way of departmental work without any payment of royalty from any non worked portion of the leased area, any minor mineral required for bonafied Government work, on receiving written instructions from the Competent Officers. The Competent Officer shall issue such instruction to lessee on receiving written and specific request from that officer of any particular departments who is competent to certify the benefited Government work, in question as regards the extent of such work and quantity of minor mineral or minerals specifically required for it:

Provided that, the Government Department shall give the amount of compensation due to the land owner or the lessee, as the case may be, if the lease has been granted of private land.

(xxvi) The lessee shall issue along with every dispatch of mineral outside the lease hold area for any mode of transport a Transit pass in **Form-O**.

(xxvii) The lessee shall pay to the occupier of the surface of the land, such compensation as may primarily be decided, mutually, amongst the lessee and the individual land holders, prior to any disturbance to the land that would be caused by the quarry operations.

The lessee shall for this purpose, submit an affidavit at the time of execution of the quarry lease deed, to the effect that he has entered into such mutual agreements with all the concerned land holders and with those land holder with whom such an agreement could not be entered into, the lessee has obtained provisional written order from the concerned Sub-Divisional Officer to enter into such land with the intention of commencing quarry operations:

Provides that, the concerned Sub-Divisional Officer shall have such case registered in his court under the provisions of section 48 of the Maharashtra Land Revenue Code, 1966:

Provided further that, the concerned Sub-Divisional Officer shall settle such cases of surface compensation regarding quarry lease on priority basis and considering the merits of the cases.

(xxviii) In case of quarry lease granted over any Government land, lessee shall pay to the Government the compensation or occupancy price as determined and fixed by Revenue authorities.

(xxix) The lessee shall comply strictly all the relevant provisions of the following Acts and

Objection Certificate (N.O.C.) from concerned Executive Engineer in case of Water Resources Department and Public Works Departments and Divisional Forest Officer of the Forests Department.

61. Application for quarry permits.- (1) An application for quarry permits shall be made in **Form-P** to the Competent Officer and shall contain the following particulars,-

- (a) Name, address, profession, nationality of the applicant.
- (b) Name and quantity of the minor mineral for which the permit is required.
- (c) Description of land, such as location, survey number from which the minor mineral is to be extracted.

(2) Every application for quarry permit shall be accompanied by the certified true copies of relevant extracts of the record of rights in respect of lands from where the applicant proposes to extract the mineral.

(3) The application shall be accompanied with the consent letter from the occupant of land in case land is belonging to individual.

(4) Every such application shall be affixed with court-fee stamp of rupees ten.

62. Application or Processing fee.- The application shall be accompanied with the processing fee as follows:-

- (i) for permit for quantity 500 brass and below ... five hundred rupees;
- (ii) for permit for quantity 501 brass to 2000 brass ... two thousand rupees;
- (iii) for permit for quantity 2001 brass to 25000 brass rupees five thousand.

In case of refusal of grant of permit applied for, the fee shall not be refunded.

63. Acknowledgement of application.- The receipt of an application for a quarry permit shall be acknowledged in **Form-Q** within three days on the receipt of application and the entry of such application shall be made in the register in **Form-R**.

64. Register of quarry permits.- A register of quarry permit shall be maintained by the Competent Officer and separate register shall be maintained for each type of minor mineral.

65. Disposal of application for quarry permit.- (i) On receipt of application the Competent Officer after verification of necessary documents grant or refuse the permit as he may deem fit, within within a period of thirty days from the date of such application. In no case the applicant shall start work unless he remits full amount of royalty and other assessable rents, taxes for such permit in advance and also unless he is issued the requisite permit by the Competent Officer.

(ii) If the application for quarry permit is for the same area in which case document in earlier case have been verified in the recent past, the Competent Officer is at liberty to consider the application without conducting any fresh enquiries and grant or refuse the application after considering the other factors in this matter.

66. Conditions on which quarry permit shall be granted.- (1) Every quarry permit granted under rule 59 and 60 shall contain a condition that at no time the depth of the pit below the surface exceeds six meters.

(2) Any quarry permit granted under rule 59 and 60 may contain such other conditions as the Competent Officer granting permit may deem necessary in regard of following matters:-

- (a) The limit, mode and place of payment of rent and royalties.
- (b) Compensation for damage to the land covered by the permit.
- (c) Felling of trees.
- (d) Restriction of surface operation in any area specified by any authority
- (e) Entering and working in any reserved area.
- (f) Reporting of accident
- (g) Indemnity to Government against claims of third parties.
- (h) Period within which the minor mineral shall be extracted and removed.
- (i) Forfeiture of property left after cancellation or expiry of permit.

(3) No other mineral except that for which the permit is granted shall be extracted and removed without proper sanction being obtained from the Competent Officer.

(4) If any minor mineral or major mineral other than for which permit has been issued is found during quarry it shall be reported to Competent Officer within a week's time after such recovery.

(5) The permit holder shall maintain complete and correct accounts of the mineral excavated, quantity removed from the permit area, sale vouchers, register of labour employed and wages paid etc. and royalty and other charges leviable for this purpose.

(6) The permit holder shall immediately report all accidents to the Competent Officer and the District Magistrate and District Superintendent of Police of the District in which the area is situated.

(7) The permit holder shall have no right over the quarry material and other property lying in the permit area after the expiry of the permit.

(8) The permit holder shall not cut or damage any trees without prior sanction or without payment of compensation as may be fixed by the Divisional Forest Officer or such officer authorised by him in this behalf.

(9) The permit holder shall not carry quarry operation within a distance of fifty meters of any public roads, public buildings or temples, rivers, *nallahs*, reservoirs, burial grounds and railway tracks etc. and cause any damage to any public or private properties.

(10) The permit holder shall allow any officer authorised by the Director of Geology and Mining and local revenue or forest authority in whose jurisdiction the land is situated to enter into and inspect any time the quarry operations and check the accounts and verify the details of

CHAPTER –V

Grant of Concession by Way of Public Auction

68. Disposal of minor minerals by way of public auction. (1) Notwithstanding anything contained in the forgoing provisions, it shall be lawful for Competent Officer to dispose of or sale the demarcated blocks of river, nallah or creeks and stacks, heaps of minor mineral incidentals to constructional work by public auction for any period not exceeding one year subject to such condition as specified in rule 65.

(2) The Competent Officer may with prior approval of the Government add to or amend the conditions of auction as provided in sub-rule (1) above.

69. River bed mining.- (a) In the case of mining leases for riverbed sand mining, specific river stretches should be identified and mining permits or lease should be granted stretch-wise, so that the requisite safeguard measures are duly implemented and are effectively monitored by the respective regulatory authorities.

(b) The depth of mining may be restricted to three meter water level, whichever is less.

(c) For carrying out mining in any proximity to any bridge and or embankment, appropriate safety zone should be worked out on case to case basis, taking into account the structural parameters, locational aspects, flow rate etc. and no mining should be carried out in the safety zone so worked out.

70. Disposal of sand from nalah, river bed and creeks by way of public auction.- Auction, disposal, terms and condition with auctioneer etc. procedures shall be specified by way of executive instructions, from time to time, by the the Government.

CHAPTER VI

STOCKING AND SELLING OF MINOR MINERAL

71. License for a dealer.-(1) No person other than a quarry permit or quarry lease holder, shall stock, sell or offer for sale any minor mineral mentioned in Schedule I in any place in State except under a dealer's license issued under the seal and signature of the Competent Officer.

(2) Form and manner of application for a Dealer's license and its renewal:-

(a) Every application for dealer's license or renewal shall be made to the Competent Officer in **Form –S**.

(b) Every such application shall be accompanied by

(i) a State Government Treasury Challan for amount of rupees one thousand remitted in Departments Receipt Head of Account.

in writing cancel the license issued under these rules.

77. Period of license.-The period of dealer license shall be valid for a calendar year and shall expire on the 31st December of every year.

78. Transit pass for transporting of minor mineral.-Every producer and dealer shall keep with vehicle transporting the material, the transit Bar-coded pass in **Form-X**, duly certified by the Competent Officer. The transit pass shall be in duplicate. Duplicate copy shall be retained by the producer or dealer. The original copy of the transit pass shall be handed over to the purchaser after unloading the minor mineral. In absence of the transit pass, the minor mineral carried through the vehicle will be treated as illicit and authorised. The truck along with material shall be confiscated by the Competent Officer, Police or any person authorised for this purpose by the Competent Officer. The vehicle so seized shall only be released on payment of cost of material, royalty and taxes and fine imposed thereon. The fine so imposed may not exceed three times the market value of the mineral so seized and also may not be less than the market value of the material so seized.

CHAPTER – VII

OFFENCES, PENALTIES AND PROSECUTION.

79. Unauthorised Operation.-(1) No person shall undertake any quarry operation or collection of any mineral in any area without the lawful authorization or permission granted by the Competent Officer under the provisions of these rules.

(2) No lessee or permit holder shall undertake any quarry operation in any area except under and in accordance with the terms and conditions of quarry lease or quarry permit under these rules.

(3) If the Competent Officer finds that the lessee or permit holder has contravened sub-rule(2), he may order cancellation of lease or permit without compensation after giving due opportunity of being heard.

(4) Whoever contravenes the provisions of these rules shall also be punishable in accordance with the Act:

Provided that, nothing in this rule shall affect the provisions of the Maharashtra Land Revenue Code, 1966 and rules framed thereunder.

80. Power of entry and inspection.-(1) For the purpose of ascertaining the position of the working, actual or prospective of any mine or abandoned mine or for any other purpose connected with these rules the State Level Vigilance Squad, the Competent Officer, Controlling Authority, Mining Officer and any other officer authorised by the Competent and Controlling authority or the State Government in this behalf by general or special order, may,-

(a) enter and inspect any mine;

CHAPTER – IX

REVISION AND REVIEW

84. Power of Government to call for and examine records and proceedings.-The Government may call for and examine the records of any enquiry or the proceedings of any Competent Officer or any other concerned officer for the purpose of satisfying itself, as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer:

Provided that, the Government shall not revise or reverse any order affecting any question of right between private person without giving to the party or parties an opportunity of being heard.

(1) The Government or the Competent Officer may, either '*Suo-moto*' or on the application of any party interested, review any order passed by itself or himself or any of its or his predecessors in-office and such orders in reference thereto as it or he thinks fit:

Provided that,

(i) no order shall be revised or reversed without giving opportunity to the parties of being heard.

(ii) no order, from which an appeal has been preferred shall, so long as such appeal is pending, be reviewed.

(2) no order shall be reviewed except on the following grounds, namely:--

(i) discovery of new and important matter or evidence;

(ii) any mistake or error apparent on the face of the record; or

(iii) any other sufficient reason.

(3) an order which has been dealt within appeal shall in no case be reviewed by the Competent Officer or any concerned officer.

(4) Orders passed in review shall on no account be reviewed.

महाराष्ट्र शासन, मुंबई, दिनांक 28, मार्च 1935

89. Repeal and Saving.- (1) The following rules hereby repealed namely:-

(1) The Rules Regulating the Working of Minor Minerals, 1954

(2) The Bombay Minor Mineral Extraction Rules, 1955.

(3) The Maharashtra Minor Mineral Extraction (Vidarbha Region) Rules, 1966.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under any of the rules repealed by sub-rule (1) shall in so far as it is not inconsistent with the provisions of these rules be deemed to have been done or taken under the corresponding Provisions of these rules.

By order and in the name of the Governor of Maharashtra,

SWADHEEN KSHATRIYA,
Additional Chief Secretary to Government.

FORM – A
(See rule 8)
(Annual Report of Prospecting Operations)

IMPORTANT

This report duly filled in must reach the Concerned authorities by 30th April for the previous year or within 30 days from the date of abandonment or within three months after the expiry of prospecting license or completion of prospecting operation, whichever ever is earlier.

To

The State Government concerned or any person so authorized.

1. Type of the minor mineral for which :
prospecting operation has been granted

2. Name and address of the license

3. Particulars of the prospecting license :

(i) Date of execution :

(ii) Period : Years From to :

(iii) Area under license : Hectares

(iv) No. and date assigned by State Government
to Prospecting Licensed No. Date:

4. Location of the prospecting licensed area :

(i) Topo sheet Number :

(ii) Cadastral Survey or Khasra Number :

(iii) Village: Taluka/Tehsil : District: State:

(iv) Post Office: Police Station:

(v) Nearest railway station : Distance:

(vi) Nearest Rest House/Dak Bungalow:

5. Particulars of the Mining Engineer or Geologist employed optionally, if any, for the prospecting licenced area:

(i) Name and address :

(ii) Qualification :

(iii) Date of appointment :

(iv) Status of employment : Whole time: Part time :

6. Status of Prospecting Operation : In Progress :
Please tick mark on the boxes Completed :
Whichever is applicable Abandoned :

7. Total surface area covered by prospecting work (hectare) :

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FORM-B (See rule 11(I))

FORM – B
(See rule 11(I))

Affix here Court – Fee
Stamp of Rs. 20/-

APPLICATION FOR QUARRY LEASE.

Received:-

At :- (Place)

On :- (Date)

(Initials of Receiving Officer or the
Official authorized for this purpose)

(Name and Designation)

Dated _____ day of 20-----

To,
The Competent Officer (Designation)

At:- (Place)

Sir,

1) I / We request that a quarry lease under 'The Maharashtra Minor Minerals Extraction (Development and Regulation) Rules, 2013 may be granted to me/us.

2) A sum of Rs. _____ /- (Rupees _____) , being the fee for of this application *vide* Treasury Chalan Number dated.....

3) (i) Name of the applicant with Complete address :-
(Local as well as permanent addresses along with PH, Fax Nos. and email address)

(ii) Status of the applicant: -
a private individual /
private company/
public company/ firm
or association.

(iii) In case applicant is ,-

- (a) an individual, his nationality.:-
(b) a private company, the nationality of all members of the company along with place of registration, registration number and date.:-
(c) a public company, the nationality of the Directors, the percentage of share capital held by Indian nationals along-with place of incorporation.:-

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- (d) Firm or association, the nationality of all the partners of the firms or members of the association.
- (iv) Profession or nature of business of the applicant.:-
- (v) Minor mineral or minerals which the applicant intends to mine.:-
- (vi) Purposes for which extracted minor minerals are to be used.:-
 (to specify the 'end-use' of the mineral also)
- (vii) Period for which quarrying lease is required.:-
- (viii) Details of the area in respect of which quarrying lease is granted :-
- (a) Area (In Hectares):-
 Survey/Khasra/Gat Numbers :-
 Village (with p.c. number) :-
 District :-
- (b) A map, in duplicate, giving the description of the applied area, (or a plan) showing as accurately as possible, the situation, boundaries and area of the land in respect of which quarrying lease is required (adjoining survey numbers on the periphery of applied area must also be shown):-
- (ix) Number and date of valid, royalty clearance certificate of mineral - revenue dues or a property sworn - in affidavit regarding non-holding of any lease any where else in the State.:-
- (x) Particulars of the mineral wise areas, within the jurisdiction of the State Government for which the applicant or any person joint in interest with him:-
- (a) is/ are already holding under quarrying lease/leases/permit/permits.:-
- (b) has/have already applied for but not granted, so far/ refused.:-
- (c) Is/are applying, simultaneously, beside this application.:-
- (xi) Nature of joint interest, if any.:-
- (xii) Financial resources of the applicant (viz. 'Solvency Certificate'/ Bank Guarantee as prescribed
 (a) PAN Card Copy (b) TIN CARD copy (c) Income Tax returns of the preceding Year.
- (xiii) Certified true copies of relevant extract of record of Rights pertaining to applied area.
- (xiv) Any other particulars which the applicant wishes to furnish.:-

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1/10/1935

I / We do hereby declare that, the particulars furnished above are correct and that I / We am / are ready to furnish any other details including accurate plans and security deposit etc. as and when it may be asked for by you.

Yours faithfully,

Place:-

Date:-

(Signature of the applicant)

NOTE:- If the application is signed by an-authorized agent of the applicant, a certified true copy of the 'power of attorney' should be attached to this application.

FORM-C
 (See rule 11(3))

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APPLICATION FOR RENEWAL OF QUARRY LEASE.

To:
 The Collector of -----
 Sir,

I/We request for renewal of my/our quarrying lease under

- 1) The Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013.
- 2) A sum of Rs. 100/- (One hundred) being the fee in respect of this application has been deposited vide challan No.-----, dated-----.
- 3) The required particulars are given below :-
 - (i) Name of the applicant with complete address.
 (Local as well as permanent address along with phone, fax Nos. and email address to be given)
 - (ii) Is the applicant a private individual/private company/public company/firm or association. (A true copy of the documents in support to be enclosed)
 - (iii) In case applicant is :-
 - (a) an individual, his nationality.
 - (b) A private company, the nationality of all members of the company along with place of registration along with registration number and date.
 - (c) A public company the nationality of directors, the percentage of share capital held by Indian Nationals along with place of incorporations.
 - (d) A firm or association, the nationality of all the partners of the firm or members of the association.
 - (iv) Profession or nature of business of applicant.
 - (v) No. and date of valid clearance certificate of payment of mining dues.
 - (vi) (a) particulars of area of the quarrying lease of which renewal is desired.
 - (vii) (b) details of previous renewal granted, if any.
- (vii) Period of which renewal of quarrying lease is required.
- (viii) Whether renewal is applied for the whole or for the part of the lease- hold area.
- (ix) In case the renewal applied for is only for part of the leasehold :
 - (a) The area applied for renewal: (in hectares)
 (to be calculated by the applicant, as precisely, as possible)

FORM - D
ACKNOWLEDGEMENT OF APPLICATION FOR QUARRY LEASE, 2013/1935

(See rule 13(4))

Acknowledgement of Application for quarry lease

Sr. No.

Date:-

Received an application with the following enclosure for a Quarry lease/renewal of quarry lease from Shri Onfor..... Hectares of land from Khasara No.....from village.....District..... for..... (Mineral)

PLACE:-

Signature and Designation.

DATE:-

of Receiving Officer.

THE SCHEDULE
PART-I
THE AREA OF THIS LEASE

*Location and area of the lease.

All the tract of India situated at (Village/town) (Description of area or areas)
..... in (Mahal/Taluka) in the Registration District of
..... Sub-District
..... and District bearing S. Nos./F.S. Nos./Forest Coupe Nos.
.....

Containing an area of Or thereabouts delineated on the plan hereto
annexed and thereon coloured and bounded as follows:-

On the North by

On the South by

On the East by

On the West by

Hereinafter referred to as "the said lands".

PART-II
LIBERTIES, POWERS AND PRIVILEGES TO BE EXERCISED AND ENJOYED BY THE
LESSEE OR LESSEES SUBJECT TO THE RESTRICTIONS AND CONDITIONS IN
PART-III

To enter upon land and search for win work, etc.

1. Liberty and power at all time during the term hereby demises to enter upon the said lands and to search for mine/quarry, bore, dig, drill fox, win, work, dress, process, convert, carry away and dispose of the said minor mineral.
2. Liberty and power for or in connection with any of the purposes mentioned in this part to sink, drive, make, maintain and use in the said lands any pits, shafts, inclines, drifts, levels, waterways and other works.
3. Liberty and power for or in connection with any of the purposes mentioned in this part to erect, construct, maintain and use on or under the said lands any engines, machinery, plant dressing-flowers furnaces, coke oven, brick kilns, workshop, store house, bungalows, godowns, sheds and other structure.
4. Liberty and power for or in connection with any of the purposes mentioned in this part to make any tramway, railways roads and other ways in or over the said lands and to use, maintain and go and repass with or without horses, cattle, wagons, locomotives or other vehicles over the same (or any existing tramways, railways, roads and other ways in or over the said lands) or such conditions as may be agreed to.
5. Liberty and power for or in connection with any of the purposes mentioned in this Part to quarry and get minor mineral and to use the same and to use such bricks or tiles but not to sell any such material.
6. Liberty and power for or in connection with any of the purposes mentioned in this part but subject to the rights of any existing or future leases and with the written permission of the Collector of (hereafter called "the Collector" which expression shall include any other officer authorized by the State Government in that behalf) to appropriate and use water from any

drifts, levels and other lines waterways, airways, water courses, drains, reservoirs, engines, machinery, plant, buildings, canals, transways, railways, roads, ways and other and conveniences as may be deemed necessary or convenient:

Provided that, in exercise of such liberty and power no substantial hindrance or interferences shall be caused to or with the liberties, powers and privileges of the lessee or lessees under these presents and that the lessee or lessees shall be entitled to such fair compensation as may be mutually agreed upon or in the event of disagreement as may be determined by the Competent Authority or any other officer appointed by the State Government in respect of all loss or damage sustained by the lessee or lessees by reason or in consequences of the exercise of such liberty and power.

2. Liberty and power to the State Government or Central Government to construct any road, railway or canal, reservoir or to carry away electric or telephone lines in or over the lands under lease is reserved.

Provided that before such liberty or power is exercised a notice of not less than sixty days shall be given to the lessee and the area utilized by Government for any of the aforesaid purposes shall be excluded from the area under the lease and the lessee will not be entitled to claim any compensation for such exclusion.

PART-V RENTS AND ROYALTIES RESERVED BY THIS LEASE

1. The lessee or lessees shall not be liable to pay in respect of any half yearly period both the dead rent reserved by clause 2 of this Part and also the sum of the royalties reserved by clause 3 of this Part but shall pay the said sum only whichever is higher.

2. Subject to the provision of clause 1 of this part, as from the day of20.. during the substance of this lease the lessee or lessees shall pay to the State Government the dead rent for every six months period on 31st January and 31st July of every year and the rate specified by Government and as applicable on the date of this lease . These rates are subject to revision, from time to time.

3. Subject to the provision of clause 1 of this part the lessee or lessees shall during the substance of this lease pay royalty to the State Government at the rates specified. Such payment of royalty shall be made by the lessee in advance in each quarter in the manner prescribed in rule of the said rule.

Provided that the rate is liable to be revised by the State Government once in every three years and the lessee shall then pay to the State Government royalty at such revised rates. The privilege rate of royalty and manner of its payment.

4. The lessee or lessees shall pay surface rent to the State Government in respect of the said land at the rate as may be specified by Government, from time to time under the authority of these presents from the commencements of such occupation or use until the area shall cease to be so occupied or used and shall so far as possible be restored to its original condition or reclaimed. Such surface rent at much rate as prescribed shall be paid upon each of the half yearly dates hereinbefore appointed for the payment of annual dead rent.

PART-VI PROVISIONS RELATING TO THE RENTS AND ROYALTIES

1. The royalties mention in Part-V of the Schedule shall be paid free from any deduction to the State Government.

2. For the purpose of computing the said royalties the lessee or lessees shall keep a correct account of the mineral or minerals actually produced from against all claims which may be made by any person or persons in respect of any such damage, injury or disturbance and all costs and expense in connection therewith.

fortnight and shall not mine and dispatch such major mineral. The lessee, if interested, may apply for grant of lease of such minor mineral under Mineral Concession Rules, 1960.

9. The lessee or lessees shall at all time during the said term keep or cause to be kept at an office to be situated upon or near the said lands correct and intelligible books of account which shall contain accurate entries showing from time to time,-

- (1) Quantity and quality of the said mineral realized from the said lands;
- (2) Quantity of the various qualities of the said minerals beneficiated, processed or converted;
- (3) Quantities of the various qualities of the said mineral sold and disposed off separate and the manner and purpose of such sale and disposal;
- (4) The price and all other production of all sale of the said mineral;
- (5) The number of person employed in the mine or works or upon the said lands specifying nationality, qualification and pay of the technical personnel;
- (6) Such other facts, particulars and circumstances as the competent authority or the Director of Geology & Mining may, from time to time, require and shall also furnish fee of charge to such officers and at such times they may prescribe true and correct abstract of all or any such books of accounts and shall at all times allow such officers or any other officer as the State Government shall in that behalf appoint, to enter into and have free access to, for the purpose of examining and inspecting the said books of accounts and to make copies thereof and make extracts there from.

10. The lessee or lessees shall at all time during the said term maintain at the mine office correct intelligible up-to-date and complete plans and sections of the mines in the said lands. They shall show all the operations and working and all the trenches, pits and drillings made by him or them in the course of operations carried on by him or them under the lease, faults and other disturbances encountered and geological data (and all such plans and section shall be amended and filled by end) from actual surveys to be made for that purpose at the end of twelve months or any period specified, from time to time, and all lessee or lessees shall furnish free of charge to the Competent Authority and to the Director of Geology and Mining true and correct couples of such plans and section whenever these are required. Accurate records of all trenches, pits and drilling shall show,-

- (a) the subsoil and strata through which they pass;
- (b) any other mineral encountered;

(c) any other matter of interest and all data required by the State Government, the Competent Authority or Director of Geology and Mining to inspect the same at all times. The lessee or lessees shall also allow any officer authorized by the Central or State Government or the competent authority or the Director of Geology and Mining to inspect the at all times.

11. The lessee or lessees shall be bound by the provisions of any laws for the time being in force, relating to the working of the mines or quarries and matter affecting safety, health and convenience of the lessee or lessees employees or of the public.

12. The lessee or lessees shall respect all existing rights of way, water and other easement and shall not carry on mining or other operations. Under the said lease in any way, other than the prescribed under these rules.

13. The lessee or lessees shall make and pay reasonable satisfaction and compensation for all damage, injury or disturbances of person or property which may be done but or on the part of the lessee or lessees in exercise of the liberties and powers granted by these presents and shall at all times save harmless and keep indemnified the State Government from and against all suits, claims and demands which may be brought or made by any person or person in respect of any such damage, injury, injury or disturbances.

14. The lessee or lessees will exercise the liberties and powers hereby granted in such a manner as to offer no necessary or reasonably avoidable obstruction or interruption to the development and

working within the said lands of any mineral not included in the lease and shall at all times afford to the Central and State Government and to the holders of mining lease, permits and prospecting license or mining lease in respect of any such minerals or any minerals within any land adjacent to the said lands, as the case may be, reasonable means of access and safe and convenient passage upon the across the said lands to such minerals for the purpose of getting, working, developing and carrying away the same provided that the lessee or lessees shall receive reasonable compensation for any damage or injury which he may sustain by reason or in consequence of the use of such passage by such lessees or holders of prospecting license.

15. The lessee or lessees shall not without previous approval of the Competent Authority assign or subject, mortgage or in any other manner transfer mining lease as a whole or any right therein.

16. Whenever the security deposits as provide in rule 14 of the said rules or any part thereof or any further sum hereafter deposited with the State Government in replenishment thereof shall be forfeited or applied by the Competent Authority pursuant to the power hereafter declared in that behalf the lessee or lessees shall deposit with the State Government such further sum as may be sufficient with the inappropriate part thereof to bring the amount in deposit with the State Government up to the sum equal to the said full security deposit amount. Lessee or lessees on or in connection with the said lands or operations under this lease and during such possession or control the lessee or lessees shall confirm and obey all directions given by or on behalf of the Central or State Government regarding the use or employment of such works, plants, premises and minerals.

Provided that after compensation which shall be determined in default or agreement by the State Government shall be paid to the lessee or lessees for all loss or damage sustained by him or them by reason or in consequences of the exercise of the power conferred by this clause and provided also that the exercise of such powers shall not determine the said term hereby granted or effect the terms and provisions of these presents further than may be necessary to give effect to the provisions of this clause.

17. The lessee or lessees shall not light any fire upon the said lands if lying within the reserved forest areas except under such conditions as the Divisional Forest Officer may in writing specifying and the lessee or lessees and his or their workmen and employees shall render prompt assistance in extinguishing any fire on the said land or in their vicinity. The lessee or lessees shall be liable for all damage resulting from fire caused by the act or omission of the lessee or lessees or his or their employees and shall pay such compensation for the said damage as may be assessed by the Divisional Forest Officer as to the amount of compensation payable by the lessee or lessees shall be final and binding on the lessee or lessees.

18. (a) The lessee or lessees shall not remove any other produce except the minor minerals mentioned in the lease. The lessee or lessees shall without mining, the discovery in the areas, comprised in his or their lease, or any minerals not specified in the lease.

(b) If any mineral not specified in the lease is or are discovered in the leased area, he or they shall not win and dispose of such mineral without obtaining lease or leases therefore

19. The lessee or lessees shall make available to the Government of India beryl or any other "substance prescribed" under section 3 of the Atomic Energy Act (Act No. XXIX of 1948) if they are found to occur in the said lands.

20. The State Government shall be immune from the lessee or lessees claim for damage on account of any land having been included in this lease which may subsequently be discovered not to have been available for the lease.

21. The lessee or lessees or his or their transferred or assignees shall not erect any building in contravention of the provisions of any law, for the time being in force, relating to the erection of building or in contravention of any order issue by such orders under any such laws within whose jurisdiction the leased area is situated.

22. The lessee or lessees shall abide by such instructions and direction as may be issued by the State Government from time to time, regarding conservation and development of minor minerals.
23. The lessee or lessees shall bear and pay the stamp duty and registration charges on this documents.

PART VII SYSTEMATIC AND SCIENTIFIC MINING

1. Protection of environment:- Every holder of a prospecting license or a lease shall take all possible precautions for the protection of environment and control of pollution while conducting prospecting, mining or processing of minor mineral in the area for which such license or lease is granted.

2. Removal and utilization of top soil:-

- (1) Where top soil exists and is to be excavated for prospecting or mining operations for minor mineral, it should be removed separately.
- (2) The top soil so removed shall be utilized for restoration and rehabilitation of the land which is no longer required for prospecting or mining operations or for stabilizing or landscaping the external dump.
- (3) Where top soil cannot be used concurrently, it shall be stored separately for future use, keeping in view that the bacterial organism should not die and should be spread nearby area.

3. Storage of overburden, waste rock etc.:-

- (1) The overburden, waste rock and non-saleable minor mineral generated during prospecting or mining operations for minor mineral shall be stored separately in properly formed dumps on grounds earmarked.
- (2) Such dumps shall be properly secured to prevent the escape of material in harmful quantities which may cause degradation of the surrounding land or silting of water courses.
- (3) Wherever possible, such waste rock or overburden or other rejects, shall be backfilled into the worked out minor mineral quarry, where minor mineral has been recovered up-to the optimum depth, with a view to restore the land to its original use or desired alternate use, as far as possible and where the backfilling is not feasible, the waste dumps shall be suitably terraced and stabilized by planting vegetation or otherwise.

4. (i) Reclamation and Rehabilitation of lands :- Every holder of prospecting licence or mining lease shall undertake the phased restoration, reclamation and rehabilitation of land affected by prospecting or mining operation and shall complete this work before the completion of such operations and abandonment of prospecting or mine.

(ii) Restoration, Reclamation and Rehabilitation in a cluster: - Where large number of small mines are situated and worked out in clusters, at such places the provisions of quarrying of minor minerals should be done in a systematic and scientific manner. The programme of restoration and reclamation of the mined out area and rehabilitation must be made jointly in phased manner in the abandoned areas in the entire cluster of the minor minerals. Environmental clearance may be obtained by corporate body or the concept of Regional Environmental Assessment (REA) and Regional Environmental Management Plan (REMP) prepared accordingly.

5. Precaution against air pollution: - Air pollution due to dust, exhaust emissions or fumes during prospecting, mining or processing operations for minor minerals and related activities shall be controlled and kept within permissible limits specified under any environmental laws for the time being in force.

6. Discharge of effluents:- Every holder of a prospecting license or a lease shall take all possible precautions to prevent or reduce to a minimum the discharge of toxic and objectionable liquid

ENVIRONMENTAL PROTECTION ACT, 1986 AND RULES THEREUNDER, 1986
ENVIRONMENTAL PROTECTION ACT, 1986 AND RULES THEREUNDER, 1986

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effluents from minor mineral quarry, workshop or processing plant into surface of ground water bodies and usable lands. These effluents shall conform to the standards laid down in this regard.

7. Precaution against noise:- Noise arising out of prospecting, mining and processing operations for minor mineral shall be abated or controlled by the holder of prospecting licensee or a lessee at the source so as to keep it within the permissible limits.

8. Permissible limits and standards:- The standards and permissible limits of all pollutants, toxins and noise referred to in Rule 48, 49 and 50 above shall be those notified by the concerned authorities under the provisions of the relevant status from time to time.

9. Restoration of flora:- (1) Every holder of prospecting license or a mining lease shall carry out prospecting or mining operations as the case may be, in such a manner so as to cause least damage to the flora of the area held under prospecting license or mining lease in the nearby area.

(i) Take immediate measures for planting in the same area or any other area selected by concerned authority or Regional Office of MOEF or the authorized officer not less than twice the number of trees destroyed by reason of any prospecting or mining operation,

(ii) Look after them during the subsistence of the license or lessee after which these trees shall be handed over to the state Forest department or any other authority as may be nominated by the State Government.

(iii) Restore, to the extent possible, other flora destroyed by prospecting or mining operation.

~~1971/1972/1973/1974/1975/1976/1977/1978/1979/1980/1981/1982/1983/1984/1985/1986/1987/1988/1989/1990/1991/1992/1993/1994/1995/1996/1997/1998/1999/2000/2001/2002/2003/2004/2005/2006/2007/2008/2009/2010/2011/2012/2013/2014/2015/2016/2017/2018/2019/2020/2021/2022/2023/2024/2025/2026/2027/2028/2029/2030/2031/2032/2033/2034/2035~~

period of six months or till such date on which the applicant is informed about the refusal, whichever is earlier. The lessee shall continue to pay the rents and royalties hereby reserved and shall observe and perform the several covenants and agreements herein contained and on the part of the lessee or lessees during the period deemed to have been extended as aforesaid. The lease shall be renewable at the option of the lessee for one term not exceeding the duration of the original lease subject to the satisfaction of the Competent Authority. The Competent Authority, upon satisfaction, will, at the expense of the lessee or lessees and upon his or their executing and delivering to the State Government if required a counterpart thereof execute and deliver to the lessee or lessees a renewal lease of the said premises for the further term of At such rents and royalties and on such terms and subject to such covenants and agreements, including this present covenant to renew as shall be in accordance with the said rules applicable to minor minerals on the day next following the expiration of the term hereby granted.

Liberty to determine surrender or relinquish any part of the leased area.

4. The lessee or lessees shall be at liberty to determine the lease or surrender or relinquish any part or parts of the leased area on giving not less than six calendar months notice in writing to the Competent Authority and upon the expiration of such notice provided that all sums due on account of the lease or of the surrendered part or parts shall have been paid, the lease shall be determined in respect of the whole of the area or the surrendered part or parts, as the case may be. If the lessee or lessees does or do not desire to surrender the whole of the area, a description of the part or parts which he desires to retain shall be made in the newly executed lease deed.

Refund of Security Deposit

5. On such date as the Competent Authority may elect within six calendar months after the determination of this lease or of any renewal thereof, the amount of the security deposit paid in respect of this lease and then remaining in deposit with the State Government and not required to be applied to any of the purposes mentioned in this lease shall be refunded to the lessee or lessees. No interest shall be payable on the security deposits. The security deposits shall be refunded only after satisfactory completion of restoration and reclamation.

1935] THE MINING LEASE + FORCE MAJEURE, MIN. SEC. 4, + MIN. SEC. 19, 2013/ THE 28, 1935

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not bound to deliver to the State Government under clause 19 of Part VII of this schedule and which the State Government shall not desire to purchase.

Failure to fulfill the terms of lease due to "Force Majeure"

6. If at the end of six calendar months after the expiration or sooner determination of the said term or after the date from which any surrender by the lessee or lessees of a part or parts of the said lands under the provisions contained in clause 4 of Part IX of this Schedule become effective, there shall remain in or upon the said land or the surrendered part or parts thereof, as the case may be any engines, machinery, plant, buildings, structures, tramways, railways and other work erections and conveniences or other property which are not required by the lessee or lessees in connection with his or their operations in those parts of the said lands which he or they has or have not surrendered or in any other lands held by him or them under mining lease the same shall if not removed by the lessee or lessees within one calendar month after notice in writing requiring their removal has been given to the lessee or lessees by the State Government be deemed to become the property of the State Government and may be sold or disposed of in such manner as the State Government shall deem fit without liability to pay any compensation or to account to the lessee or lessees in respect thereof.
7. Every notice by these presents required to be given to the lessee or lessees shall be given in writing to such person resident on the said lands as the lessee or lessees may appoint for the purpose of receiving such notices and if there shall have no such appointment even every such notice shall be sent to the lessee or lessees by registered post addressed to the lessee or lessees at the address recorded in this lease or at such other address in India as the lessee or lessees may, from time to time, in writing to the State Government designate for the receipt of notices and every such service shall be deemed to be proper and valid service upon the lessee or lessees and shall not be questioned or challenged by him.
8. This Mining Lease is granted subject to the provisions relating to grant of mining lease contained in Chapter II of the Maharashtra Minor Mineral Extraction Rules, 1998.

Lessee to remove his properties on the expiry to lease.

For failure of property left more than six months after determination of lease.

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1/19/2019 10:08 AM +05:30

SIGNED, SEALED AND DELIVERED

BY SHRI------(Name) -----

-----DESIGNATION -----

For and on behalf of the Governor of

Maharashtra in the presence of ----

1)-----

2)-----

(1) SIGNED AND DELIVERED BY THE

WITHIN NAMED

Services of notices

SHRI/SMT -----

THE LESSEE, IN THE PRESENCE OF -----

OR

(2) SIGNED AND DELIVERED BY THE

WITHIN NAMED SARVASHRI

(1) -----

(2) -----

(3) -----

The Lessees in the presence of -----

(1) -----

(2) -----

Or

(3) SIGNED AND DELIVERED BY THE

WITHIN NAMED SARVASHRI

(1) -----

(2) -----

(3) -----

THE Lessees in the presence of -----

(1) -----

(2) -----

or

(4) THE COMMON SEAL OF M/s -----

Limited Company was pursuant to the

FORM F
(See rule 34)
(Notice of Intimation of Opening of Mine /Quarry)

1. (i) Name of minor mineral worked :
- (ii) Name of other mineral(s) worked, if any :
2. Name of the quarry/mine :
3. Date of opening of quarry / mine :
4. Letter No. and Date through which the mining plan was approved :
(Specify Authority)
5. Name and address of the Lessee/Owner :
6. Ownership of the quarry :
 - a. Public sector :
 - b. Joint sector :
 - c. Private sector :
 (In case of joint sector, specify percentage share of each company)

In case the lessee is a Company or a partnership firm or Co-operative indicate name and

7. address of the Director-in-Charge and the Registered Office :
8. Particulars of Quarry/Mining Lease (ML)
 - (i) Date of execution :
 - (ii) Period : Years From: to:
 - (iii) Area under licence : Hectares
9. Location of the lease :
 - (i) Topo Sheet Number :
 - (ii) Cadastral Survey or Khasra Number :
 - (iii) Village : Taluka/Tehsil: District : State :
 - (iv) Post Office : Police Station :
 - (v) Nearest railway station : Distance :
 - (vi) Nearest Rest House/Dak Bungalow :
10. Name and address of previous owner, if any, and the date of abandonment :
11. Particulars of Agent
 - (a) Name and address :

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132. (b) Date of appointment : 19/01/2013/ 2013/ 28/ 1935

(b) Date of appointment :

12. Particulars of Mining Engineer

(a) Name and address :

(b) Qualifications :

(c) Date of appointment :

(d) Status of employment :

Whole time : Part time :

13. Particulars of manager:

(a) Name and address :

(b) Date of appointment :

Place:

Signature :

Date :

Name in full :

Designation: Owner / Agent/ Mining Engineer Manager.

**(Notice of Intention of Abandonment/Surrender of Mine/Quarry or part of the Mine/
Quarry)**

1. (i) Type of the minor mineral worked :
(ii) Name of other mineral(s) worked, if any :
2. Name of the mine quarry :
3. Name and Address of the Lessee/Owner:
4. Particulars of Mining/ Quarry Lease(OML) :
- (i) Date of execution :
- (ii) Period: _____ Years From: _____ to: _____
- (iii) Area under lease.....Hectares

5. Location of Quarry/Mine :

- (i) Topo Sheet number _____ :
- (ii) Cadastral Survey or Khasra Number _____ :
- (iii) Village: _____ Taluka/Tehsil: _____ District: _____ State _____
- (iv) Post Office: _____ Police Station: _____
- (v) Nearest railway station: _____
- (vi) Nearest Rest House/Dak Bungalow : _____

6. Name and address of Agent _____ :

7. Particulars of Mining Engineer _____ :

(a) Name and Address _____ :

(b) Qualifications _____ :

8. Date by which mining operations are to be abandoned or mine to be surrendered:

9. Reasons for abandonment/surrender

Exhaustion of minor mineral: _____ Lack of Demand: _____
 Uneconomic operations: _____ Non availability of labour: _____
 Land slide: _____ Flooding of quarry: _____
 Other calamity (specify): _____ Other reasons (specify): _____
 (Please tick whichever is applicable)

10. If the abandonment is due to natural calamities or order/directions issued by any statutory authority/tribunal/Court for abandoning mining operations the date of such abandonment.

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Form No. 10 (M) + Form No. 11 (M) + Form No. 12 (M) + Form No. 13 (M) + Form No. 14 (M) + Form No. 15 (M) + Form No. 16 (M) + Form No. 17 (M) + Form No. 18 (M) + Form No. 19 (M) + Form No. 20 (M) + Form No. 21 (M) + Form No. 22 (M) + Form No. 23 (M) + Form No. 24 (M) + Form No. 25 (M) + Form No. 26 (M) + Form No. 27 (M) + Form No. 28 (M) + Form No. 29 (M) + Form No. 30 (M) + Form No. 31 (M) + Form No. 32 (M) + Form No. 33 (M) + Form No. 34 (M) + Form No. 35 (M) + Form No. 36 (M) + Form No. 37 (M) + Form No. 38 (M) + Form No. 39 (M) + Form No. 40 (M) + Form No. 41 (M) + Form No. 42 (M) + Form No. 43 (M) + Form No. 44 (M) + Form No. 45 (M) + Form No. 46 (M) + Form No. 47 (M) + Form No. 48 (M) + Form No. 49 (M) + Form No. 50 (M) + Form No. 51 (M) + Form No. 52 (M) + Form No. 53 (M) + Form No. 54 (M) + Form No. 55 (M) + Form No. 56 (M) + Form No. 57 (M) + Form No. 58 (M) + Form No. 59 (M) + Form No. 60 (M) + Form No. 61 (M) + Form No. 62 (M) + Form No. 63 (M) + Form No. 64 (M) + Form No. 65 (M) + Form No. 66 (M) + Form No. 67 (M) + Form No. 68 (M) + Form No. 69 (M) + Form No. 70 (M) + Form No. 71 (M) + Form No. 72 (M) + Form No. 73 (M) + Form No. 74 (M) + Form No. 75 (M) + Form No. 76 (M) + Form No. 77 (M) + Form No. 78 (M) + Form No. 79 (M) + Form No. 80 (M) + Form No. 81 (M) + Form No. 82 (M) + Form No. 83 (M) + Form No. 84 (M) + Form No. 85 (M) + Form No. 86 (M) + Form No. 87 (M) + Form No. 88 (M) + Form No. 89 (M) + Form No. 90 (M) + Form No. 91 (M) + Form No. 92 (M) + Form No. 93 (M) + Form No. 94 (M) + Form No. 95 (M) + Form No. 96 (M) + Form No. 97 (M) + Form No. 98 (M) + Form No. 99 (M) + Form No. 100 (M)

11. Reserve of the minerals in the area. (a) Proved :
(b) Probable :
(c) Possible :
12. Total production of the mineral since first opening of quarry/mine:
13. Number of workers employed in the Quarry : Male : Female :
Company Labour (Direct) :
Contract Labour :

Place :

Signature :

Date :

Name in full :

Designation :

Owner/Agent/Mining Engineer/Manager

Note : 1. In cases where part of the lease area is proposed to be abandoned/ surrendered, information relating only to such part shall be given in columns 11, 12 and 13.

2. Please enclose plans/sections of the lease areas on a scale not less than 1:1000 (1 centimeter = 10 meter) indicating accurately the work done in the quarry up to the time of submission of this notice including measures envisaged for protection of abandonment/surrendered quarry and approaches there to and the environment.

FORM-H

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FORM-H
(See Rule 36)

(Notice of Temporary Discontinuance of Quarry /Mine)

MINE QUARRY CODE-----

1. (i) Type of the minor mineral worked :
(ii) Name of the other mineral(s) worked, if any :
2. Name of the mine/ quarry :
3. Name and Address of the lessee/Owner :
4. Particulars of quarry mine Lease :
(i) Date of execution :
(ii) Period _____ years from: _____ to:
(iii) Area under lease..... Hectares
5. Location of Quarry Mine :
(i) Topo Sheet Number :
(ii) Cadastral Survey or Khasra Number :
(iii) Village _____ Taluka/Tahsil : _____ District: _____ State :
(iv) Post Office : _____ Police Station : _____
(v) Nearest Railway station : _____ Distance : _____
(vi) Nearest Rest House Dak Bungalow :
6. Name and Address of Agent :
7. Name and Address of the Mining Engineer :
8. Reasons for discontinuance :
Lack of demand :
Non availability of Labour :
Rains :
Transport bottleneck :
Strike :
Lock out :
Operation becoming uneconomic :
Other reasons (specify) :
(Please tick whichever is applicable)
9. Date of discontinuance of mining operation :
10. Probable date of reopening :

Place :

Signature :

Date :

Name in full :

Designation: Owner/Agent/Mining
Engineer/Manager

FORM J
 19, 2013/ 28, 1935

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[See rule 39]

Register of Application for Quarry Lease

1. Serial No :-
2. Date of Application :-
3. Date on which application was received by the receiving officer.
4. Name of the applicant with full address :-
 (Local as well as permanent address along with Phone, Fax and email address)
5. Date of completion of the application :-
6. Details of the area applied for :-

Village	Taluka	District
---------	--------	----------

Khasara No. / Survey No / Gat No. Area (In hectares)
 (Working circle to be stated in respect of forest lands)
7. Application fee paid, Rs. vide treasury Chalan No dated
8. Date on which application is sent for enquiry / site inspection :-
9. Officer / official to whom the enquiry / site inspection is marked.:-
10. Date on which the enquiry report/ site inspection report is received :-
11. Final disposal of the application together with number and date of the order :-
- 12 Remarks :
 (To state whether granted / refused, if granted , details of area granted)

Signature of the Competent Officer.

Form K of the Mineral Concessions (Amendment) Act, 1935, No. 19 of 1935, dated 28.11.1935

FORM K

(See rule 41)

Register of Quarry Leases Granted .

1. Serial No.:-
2. Name of the lessee.:-
3. Residence with complete address of lessee:-
(Permanent and Local address along with PH, Fax Nos. & email address.)
4. No. and date of grant of lease:-
5. Date of execution of quarrying lease:-
6. Details of the area granted under lease:-
(1)Village (2)Taluka (3) District
Khasara No. / Survey No./ Gat No./ Area (in hectares)
7. Minor Mineral or minerals for which lease has been granted:-
8. Minor Mineral or minerals added to the quarry lease with No. and date of grant:-
9. Details of security Deposit:-
10. Period for which lease is granted: (i) Total years :.....
(ii) Date : From to
11. Rate of (1) Dead rent and (2) Royalty:-
12. Period for which leases is renewed: (i) Total years :.....
(ii) Date : From to
13. Date of commencement of quarrying operation:-
14. Amount of surface rent fixed and date of fixation:-
15. Number and date of assignment of transfer of the lease, if any, and the name of assignee/ transferee:-
16. Date of expiry of lease surrendered or cancelled:-
17. Date from which area is available for re grant:-
18. Refund of security deposit (No. and date with signature of lessee:-
19. Remark:-

Signature of Competent Officer.

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1/10/1935

(16) Particulars where working is done or progress :-

(17) Maximum depth of the mine :-

(18) Average labour employed during the year:-

Signature of lessee/ Agent

FROM-N

[See rule 46(xv)]

Annual return of total quantity of material raised in preceding year and its value for the year-
To be submitted by 15th January every year to the (i) Director of Geology and Mining, Maharashtra State, Nagpur and (ii) Collector-----

- (1) Name and address of the lessee :-
- (2) Location of the mine.
 - (a) Village/Forest WC :-
 - (b) P.C. No./ F.C. No. :-
 - (c) Area under lease in hectares :-
 - (d) Tahsil/ District :-
- (3) Name of Minerals. :-
- (4) Date of grant of lease :-
- (5) Date of execution of the lease and period of the lease:-
- (6) Balance at the beginning of the year Cu. Meters. M. Tones.
- (7) Production during the year Cu. Meters M. Tones.
- (8) Total (of col. 6 and 7) Cu. Meters M. Tones.
- (9) Total cost of production during the year :-
- (10) Total sale during the year. Cu. Meters M. Tones.
- (11) Total cost of sold material Rs :-
- (12) Balance at the close of the year:-
- (13) Rate of royalty :-
- (14) Total gross royalty due on the material sold during the year :-
 - (a) Previous balance due as on 31-12-20---- Rs. -----
 - (b) Amount to be paid Rs. -----
 - (c) Amount paid Rs ----- Ch. No. ----- Date -----
 - (d) Balance due -----
- (15) Dead rent paid Rs. ----- vide Challan No. ----- Date -----
- (16) Particulars where working is done or progress :-
- (17) Maximum depth of the mine :-
- (18) Average labour employed during the year:-

Signature of lessee/ Agent.

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FORM - P
 [See rule 61(I)]

FORM - P

[See rule 61(I)]

Affix here Court -
 Fee Stamp of Rs.
 20/-

APPLICATION FOR QUARRY PERMIT.

Dated _____ day of 20----

To,
 The Competent Officer (Designation)

At:- _____ (Place)

Sir,

- (1) I / We request that a quarry lease under 'the Maharashtra Minor Minerals Extraction (Development and Regulation) Rules, 2013 may be granted to me/us.
- (2) A sum of Rs. _____ /- (Rupees _____), being the fee in respect of this application has been deposited vide Treasury Chalan Number dated.....
- (3) (i) Name of the applicant with Complete address :-
 (Local as well as permanent addresses are to be stated)
 With details like PH/ Fax Nos. and email address
- (ii) Status of the applicant: - _____ a private individual /
 (A true attested copy of document to be enclosed) private company/
 public company/ firm
 or association.
- (iii) In case applicant is,-
- (a) An individual, his nationality:-
- (b) A private company, the nationality of all members of the company along with place of registration, registration number and date:-

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~~1/2013/1935 + 1/2013/1935 + 1/2013/1935 + 1/2013/1935 + 1/2013/1935 + 1/2013/1935 + 1/2013/1935 + 1/2013/1935 + 1/2013/1935 + 1/2013/1935~~

I we do hereby declare that, the particular furnished above are correct and that I/ We, am/ are ready to furnish any other details as may be assessed on the quantity of minerals is proposed to be quarried. I/We also agree to pay in advance any surface rent or cesses and any other mineral dues that may be demanded of me/us.

Place:-

Yours faithfully

Date:-

(Signature of the applicant)

Note:- If the applicant is signed by an authorized agent of the applicant, a certified true copy of the power 'power of attorney' should be attached to this application.

FORM-S
[see rule 71 (2)(a)]

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Application for Grant or Renewal of Dealer's License

To,

The Competent Officer,

Sir,

I/We requested that a dealer's License to stock and sell minor minerals under the Maharashtra Minor Mineral Extraction(Development and Regulation) Rules, 2013 be granted/renewed to me/us.

The fee of Rs. 250/- payable for the grant/renewal of dealer's license has been paid and Treasury Chalan Receipt. No..... dated Is enclosed in original.

The required particulars are given below:-

1. Name of applicant with complete address, PH, Fax Nos. and email address :
2. Is the applicant a private individual/private /public/company/firm or Association?
3. In case application is,
 - (a) an individual's , his nationality :
 - (b) a private company the nationality of all members of the company along with place of registration :
 - (c) A public company, the nationality of Directors, the percentage of share capital held by Indian Nationals along with place of incorporation.
 - (d) A firm or association, the nationality of all partners of the firm or members of association.
4. Name of Minor Minerals (s) to be sold :-
5. Quantity to be stocked during the year:-
(Mineral wise)
6. Details of the location of the Depot :-
(Address, Sy. No. etc. of the area in which
7. The depot is situated are to be furnished along
(With a location map.)
8. Particulars of the previous dealer's license
9. If applying for renewal

I/We do hereby declare that particulars furnished above are correct and am/are ready to furnish other details including security deposit etc. as may be required by you.

Place :

Date :

Yours faithfully,

Name and Designation of the applicant.

FORM-V**Stack Register to be maintained by a dealer**

Name of dealer :

License No :

Name of Minor Mineral:

Date	Opening Balance	Purchase	Total	Sale	Balance of Stock	Initials of the Dealer
(1)	(2)	(3)	(4)	(5)	(6)	(7)

FORM-W

[See rule 75]

Statement of accounts to be furnished by dealer

Name of Dealer :-

License No :-

Name of Minor Mineral: - for the Month of:-

Opening Balance	Quantity Purchased	From whom Purchased	Price Paid	Quantity sold	to Whom sold	price realized	Balance	Remark
1.	2.	3.	4.	5.	6.	7.	8.	9.

Place:-

Date:-

Signature of the Dealer.

ANNEXURE - R-15

SOM DATT BUILDERS LTD. v. UNION OF INDIA

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(BEFORE TARUN CHATTERJEE AND R.M. LODHA, JJ.)

a SOM DATT BUILDERS LIMITED . . . Appellant;

Versus

UNION OF INDIA AND OTHERS . . . Respondents.

Civil Appeals No. 2088 of 2007[†] with Nos. 7475-76 of 2009[‡],
7477 of 2009^{††}, 7478 of 2009^{‡‡}, 4314 of 2008 and 2087 of 2007,
b decided on November 9, 2009

c A. Mines and Minerals (Development and Regulation) Act, 1957 —
S. 3(e) — Ordinary earth — Classification of, as “minor mineral”, held,
valid — Central Government Noti. dt. 3-2-2000 declaring ordinary earth
used for filling or levelling purposes in the construction of embankments,
roads, railways and buildings to be “minor mineral” and amendment
brought to Sch. I to U.P. Minor Minerals (Concession) Rules, 1963 fixing
royalty for use of “ordinary earth” — Validity — Held, word “mineral” is
capable of multiplicity of meanings depending upon context and has no
fixed but a contextual connotation — Adopting reasoning given in *Banarsi*
Dass, (1978) 4 SCC 11, that if “minor mineral” as defined in S. 3(e) includes
“ordinary clay” and “ordinary sand”, then “ordinary earth” is
comprehended within meaning of “any other mineral”

d (Paras 6, 7, 9, 17 and 22 to 25)

e B. Mines and Minerals (Development and Regulation) Act, 1957 —
S. 3(e) — Power of State of exclusion or inclusion in declaring mineral,
“minor mineral” based on user or purpose-based distinction — Validity —
“Ordinary earth” found to be comprehended within meaning “any other
mineral” for purposes of S. 3(e) of 1957 Act — Hence, no impediment to
Central Government to include or exclude the same based on a particular
use or purpose — User can be a valid reason for exclusion as well as
inclusion in declaring mineral, “minor mineral” — Exercise of any such
power under S. 3(e) based on use or purpose cannot be said to be arbitrary

(Paras 26 and 27)

f C. Mines and Minerals (Development and Regulation) Act, 1957 — Ss. 9
and 15 — Demand notices issued towards payment of royalty — Whether
demand of royalty could be raised only against lessee or mining permit-
holder and not against contractors and suppliers of ordinary earth — High
Court opining liability primarily of person holding mining lease or permit
but if a person does not hold any mining lease or a mining permit, liability
does not cease — Validity — Held, 1963 Rules provide remedy to aggrieved
person against order passed under Rules by District Officer demanding
payment of royalty — Appellant contractors having failed to pursue remedy
provided thereunder, hence, view taken by High Court does not call for any
interference — Mines and Minerals — Royalty — Persons liable for —
g U.P. Minor Minerals (Concession) Rules, 1963 (Paras 31 and 32)

[†] From the Judgment and Order dated 28-2-2006 of the High Court of Judicature at Allahabad in
Civil Misc. WP No. 8760 of 2003

[‡] Arising out of SLPs (C) Nos. 6808-09 of 2008

^{††} Arising out of SLP (C) No. 12127 of 2006

^{‡‡} Arising out of SLP (C) No. 12722 of 2006

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Black's Law Dictionary, 8th Edn.; *Webster's Third New International Dictionary*, 1968; *Funk and Wagnalls' Standard Dictionary*, International Edn., Vol. II; *Oxford Illustrated Dictionary*; *Grolier International Dictionary*, Vol. II., referred to

Banarsi Dass Chadha and Bros. v. Lt. Governor, Delhi Admn., (1978) 4 SCC 11, followed a
Bhagwan Dass v. State of U.P., (1976) 3 SCC 784, relied on

Glasgow Corpn. v. Farie, (1888) 13 AC 657 : (1886-90) All ER Rep 115 (HL); *North British Railway Co. v. Budhill Coal and Sandstone Co.*, 1910 AC 116 (HL); *Scott v. Midland Railway Co.*, (1901) 1 KB 317 (DC); *Great Western Railway Co. v. Carpalla United China Clay Co. Ltd.*, 1910 AC 83 (HL); *Northern Pacific Railway Co. v. John A. Soderberg*, 47 L Ed 575 : 188 US 526 (1902); *Midland Railway Co. v. Haunchwood Brick & Tile Co.*, (1882) 20 Ch D 552; *Hext v. Gill*, (1872) 7 Ch App 699 : (1861-73) All ER Rep 388; *Laddu Mal v. State of Bihar*, AIR 1965 Pat 491; *Amar Singh Modi Lal v. State of Haryana*, AIR 1972 P&H 356; *Sharma & Co. v. State of U.P.*, AIR 1975 All 386; *State of M.P. v. Mahalaxmi Fabric Mills Ltd.*, 1995 Supp (1) SCC 642, referred to

V.P. Pithupitchai v. Govt. of T.N., (2003) 9 SCC 534, distinguished

State of W.B. v. Jagadamba Prasad Singh, AIR 1969 Cal 281, held, overruled

Appeals dismissed B-D/44235/C c

Advocates who appeared in this case :

Shail Kr. Dwivedi, Additional Advocate General, Sunil Gupta, S.P. Singh, K. Radhakrishnan, Ms Shobha Dikshit and S.R. Singh, Senior Advocates [Rajiv K. Garg, Ashish Garg, A.D.N. Rao, Venkateswara Rao Anumolu, C.D. Singh, Sunny Chowdhary, Lakshmi Raman Singh, Vivek Singh, Ms Udit Singh, Ron Bastian, Chandra Prakash, Rajesh Srivastava, Ms Rekha Pandey, Ms Sadhna Sandhu, Ms Rashmi Malhotra, Wasim Qadri, A.K. Sharma, D.S. Mahra, Pradeep Misra, Suraj Singh, Manoj Kr. Sharma, V.K. Verma, M/s S.A. Abdi, Anuvrat Sharma, M/s Vandana Mishra, Ms Alka Sinha and M/s Praveen Jain and Mukesh Kumar (for M/s M.V. Kini & Associates), Advocates] for the appearing parties. d

Chronological list of cases cited on page(s)

1. (2003) 9 SCC 534, *V.P. Pithupitchai v. Govt. of T.N.* 317d-e, 317f-g, 318f-g, 319b, 319d, 319g, 320d-e e
2. 1995 Supp (1) SCC 642, *State of M.P. v. Mahalaxmi Fabric Mills Ltd.* 317e
3. (1978) 4 SCC 11, *Banarsi Dass Chadha and Bros. v. Lt. Governor, Delhi Admn.* 315f, 316c, 316g, 317a-b, 317d, 317e-f, 319f, 319f-g, 320c-d, 320e-f, 320f-g
4. (1976) 3 SCC 784, *Bhagwan Dass v. State of U.P.* 315c, 316b-c, 317e-f
5. AIR 1975 All 386, *Sharma & Co. v. State of U.P.* 317c f
6. AIR 1972 P&H 356, *Amar Singh Modi Lal v. State of Haryana* 317c
7. AIR 1969 Cal 281, *State of W.B. v. Jagadamba Prasad Singh (held, overruled)* 317c-d, 319f-g, 320f
8. AIR 1965 Pat 491, *Laddu Mal v. State of Bihar* 317c
9. 1910 AC 116 (HL), *North British Railway Co. v. Budhill Coal and Sandstone Co.* 314e
10. 1910 AC 83 (HL), *Great Western Railway Co. v. Carpalla United China Clay Co. Ltd.* 315a-b g
11. (1901) 1 KB 317 (DC), *Scott v. Midland Railway Co.* 314g-h
12. 47 L Ed 575 : 188 US 526 (1902), *Northern Pacific Railway Co. v. John A. Soderberg* 316b-c, 316c
13. (1888) 13 AC 657 : (1886-90) All ER Rep 115 (HL), *Glasgow Corpn. v. Farie* 314b-c, 315a, 315b-c
14. (1882) 20 Ch D 552, *Midland Railway Co. v. Haunchwood Brick & Tile Co.* 316f-g h
15. (1872) 7 Ch App 699 : (1861-73) All ER Rep 388, *Hext v. Gill* 316f-g

The Judgment of the Court was delivered by

R.M. LODHA, J.— Leave granted in SLPs (C) Nos. 12127, 12722 of 2006 and 6808-09 of 2008. This group of seven appeals arises from the common judgment passed by the High Court of Judicature at Allahabad on 28-2-2006 and, therefore, all these appeals were heard together and are being disposed of by this judgment.

2. The core issue that calls for determination in these appeals is whether “ordinary earth” used for filling or levelling purposes in the construction of embankments, roads, railways and buildings has validly been declared to be a “minor mineral” by the Central Government vide Notification dated 3-2-2000 issued under Section 3(e) of the Mines and Minerals (Development and Regulation) Act, 1957 (for short “the 1957 Act”).

3. It is not necessary to refer to the facts of each of these appeals. The brief narration of facts in Civil Appeal No. 2088 of 2007 will suffice. The appellant therein is a company incorporated under the Companies Act, 1956. It is engaged in the construction of business towers, hotels and various other infrastructural development projects. According to them, an agreement was entered into between the Company and National Highways Authority of India for widening of Grand Trunk Road from 393 kilometre stone to 470 kilometre stone at Sikandara, Kanpur. For the purpose of filling and levelling of the road, the Company entered into an agreement with the local landholders/agriculturists for purchase of “ordinary earth” and paid them accordingly.

4. Various demand notices are said to have been issued to the appellant towards royalty for lifting “ordinary earth” necessitating them to approach the High Court of Judicature at Allahabad challenging the constitutional validity of the Notification dated 3-2-2000 issued by the Central Government. They also challenged the amendment brought in the First Schedule by the State of Uttar Pradesh in the Uttar Pradesh Minor Minerals (Concession) Rules, 1963 (for short “the 1963 Rules”) fixing royalty for the use of “ordinary earth” at the rate of Rs 4 per cubic metre.

5. Section 3 of the 1957 Act defines “minerals” and “minor minerals” as follows:

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

(a) ‘minerals’ includes all minerals except mineral oils;

(b)-(d) * * *

(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;”

6. In exercise of the power conferred under Section 3(e), the Central Government issued the following Notification on 3-2-2000:

“GSR 95(E).—In exercise of the powers conferred by clause (e) of Section 3 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby declares the ‘ordinary

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earth' used for filling or levelling purposes in construction of embankments, roads, railways, buildings to be a minor mineral in addition to the minerals already declared as minor minerals hereinbefore under the said clause."

That a substance has to be a mineral before it can be notified as a "minor mineral" pursuant to the power under Section 3(e) of the Act of 1957 is not in dispute. Whether "ordinary earth" is a mineral is the primary question for consideration. The question is a little intricate one because the definition of "minerals" in the 1957 Act is not of much help in finding answer to the question.

7. The word "mineral" has come up for judicial interpretation from time to time. In *Glasgow Corpn. v. Farie*¹ the issue before the House of Lords was whether clay is included in "other minerals" under the Waterworks Clauses Act, 1847. Lord Halsbury, L.C. said: (AC pp. 669-70)

"There is no doubt that more accurate scientific investigation of the substances of the earth and different modes of extracting them have contributed to render the sense of the word 'minerals' less certain than when it originally was used in relation to mining operations. I should think that there could be no doubt that the word 'minerals' in old times meant the substances got by mining, and I think mining in old times meant subterranean excavation. I doubt whether in the present state of the authorities it is accurate to say that in every deed or in every statute the word 'minerals' has acquired a meaning of its own independently of any question as to the manner in which the minerals themselves are gotten."

Lord Watson in his opinion stated that "mines" and "minerals" are not definite terms: they are susceptible of limitation or expansion, according to the intention with which they are used.

8. The House of Lords in *North British Railway Co. v. Budhill Coal and Sandstone Co.*² was concerned with the question whether sandstone or freestone is included in the minerals excepted by Section 70 of the Railways Clauses Consolidation (Scotland) Act of 1845. Lord Loreburn, L.C. considered a number of decisions including the aforementioned decision and summarised the tests applied in various cases in the following words: (AC p. 125)

"... It is not possible to extract any uniform standard. The same is true of the opinions expressed by different learned Judges. A variety of tests have been propounded, which are discussed by Lord Gorell. I agree with him both in his enumeration and in his criticism. Is the substance in common parlance a mineral? Is it so considered by geologists? Is it a substance of any peculiar value? No one principle has been accepted, and every principle appears to have its friends."

9. In *Scott v. Midland Railway Co.*³ Darling, J. observed that the word "minerals" is one which at different times has been used with very different

1 (1888) 13 AC 657 : (1886-90) All ER Rep 115 (HL)

2 1910 AC 116 (HL)

3 (1901) 1 KB 317 (DC)

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meanings. In some statutes it has a very restricted meaning, in others a very wide one. In order to determine in each case whether the word is used in a wide or narrow sense we must, as Lord Herschell said in *Glasgow Corpn. v. Farie*¹, look at the object which the legislature had in view.

10. In *Great Western Railway Co. v. Carpalla United China Clay Co. Ltd.*⁴ the House of Lords had an issue before it whether china clay was a mineral within the provisions of the Railways Clauses Consolidation Act, 1845. Lord Macnaghten said: (AC p. 84)

“... ‘... the word “minerals” undoubtedly may have a wider meaning than the word “mines”. In its widest signification it probably means every inorganic substance forming part of the crust of the earth other than the layer of soil which sustains vegetable life.’* ”

11. In *Bhagwan Dass v. State of U.P.*⁵ it was argued before this Court that the sand and gravel are deposited on the surface of the land and not under the surface of the soil and, therefore, they cannot be called minerals. Y.V. Chandrachud, J. (as he then was) negating the said contention said: (SCC p. 789, para 13)

“13. ... It is in the first place wrong to assume that mines and minerals must always be subsoil and that there can be no minerals on the surface of the earth. Such an assumption is contrary to informed experience. In any case, the definition of ‘mining operations’ and ‘minor minerals’ in Sections 3(d) and (e) of the Act of 1957 and Rules 2(5) and (7) of the Rules of 1963 shows that minerals need not be subterranean and that mining operations cover every operation undertaken for the purpose of ‘winning’ any minor mineral. ‘Winning’ does not imply a hazardous or perilous activity. The word simply means ‘extracting a mineral’ and is used generally to indicate any activity by which a mineral is secured. ‘Extracting’, in turn, means, drawing out or obtaining. A tooth is ‘extracted’ as much as is fruit juice and as much as a mineral. Only, that the effort varies from tooth to tooth, from fruit to fruit and from mineral to mineral.”

12. In *Banarsi Dass Chadha and Bros. v. Lt. Governor, Delhi Admn.*⁶, a three-Judge Bench of this Court was seized with the question whether “brick earth” is a “minor mineral” within the meaning of that expression as defined in Section 3(e) of the 1957 Act. Chinnappa Reddy, J. speaking for the Bench observed: (SCC p. 13, para 4)

“4. ... The expression ‘minor mineral’ as defined in Section 3(e) includes ‘ordinary clay’ and ‘ordinary sand’. If the expression ‘minor mineral’ as defined in Section 3(e) of the Act includes ‘ordinary clay’ and ‘ordinary sand’, there is no reason why earth used for the purpose of making bricks should not be comprehended within the meaning of the

⁴ 1910 AC 83 (HL)

* **Ed.:** As observed in *Glasgow Corpn. v. Farie*, (1888) 13 AC 657, at p. 689.

⁵ (1976) 3 SCC 784

⁶ (1978) 4 SCC 11

word ‘any other mineral’ which may be declared as a ‘minor mineral’ by the Government. The word ‘mineral’ is not a term of art. It is a word of common parlance, capable of a multiplicity of meanings depending upon the context. For example the word is occasionally used in a very wide sense to denote any substance that is neither animal nor vegetable. Sometimes it is used in a narrow sense to mean no more than precious metals like gold and silver. Again, the word ‘minerals’ is often used to indicate substances obtained from underneath the surface of the earth by digging or quarrying. But this is not always so as pointed out by Chandrachud, J. (as he then was) in *Bhagwan Dass v. State of U.P.*⁵...”

13. This Court referred to a decision of the Supreme Court of United States in *Northern Pacific Railway Co. v. John A. Soderberg*⁷ and quoted the observations made therein (*Soderberg case*⁷, L Ed p. 581) as follows: (*Banarsi Dass Chadha case*⁶, SCC pp. 13-14, para 5)

“5. ... ‘The word “mineral” is used in so many senses, dependent upon the context, that the ordinary definitions of the dictionary throw but little light upon its signification in a given case. Thus, the scientific division of all matter into the animal, vegetable, or mineral kingdom would be absurd as applied to a grant of lands, since all lands belong to the mineral kingdom, and therefore could not be excepted from the grant without being destructive of it. Upon the other hand, a definition which would confine it to the precious metals—gold and silver—would so limit its application as to destroy at once half the value of the exception. Equally subversive of the grant would be the definition of minerals found in the *Century Dictionary*; as “any constituent of the earth’s crust;” and that of *Bainbridge on Mines*: “All the substances that now form, or which once formed, a part of the solid body of the earth.” Nor do we approximate much more closely to the meaning of the word by treating minerals as substances which are “mined”, as distinguished from those which are “quarried”, since many valuable deposits of gold, copper, iron, and coal lie upon or near the surface of the earth, and some of the most valuable building stone, such, for instance, as the Caen stone in France, is excavated from mines running far beneath the surface. This distinction between underground mines and open workings was expressly repudiated in *Midland Railway Co. v. Haunchwood Brick & Tile Co.*⁸ and in *Hext v. Gill*⁹.”

14. This Court further held in para 6 of the Report thus: (*Banarsi Dass Chadha case*⁶, SCC p. 14)

“6. The Supreme Court of United States also referred to several English cases where stone for road making or paving was held to be ‘mineral’, as also granite, sandstone, flintstone, gravel, marble, fire-clay,

7 47 L Ed 575 : 188 US 526 (1902)

8 (1882) 20 Ch D 552

9 (1872) 7 Ch App 699 : (1861-73) All ER Rep 388

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brick-clay, and the like. It is clear that the word ‘mineral’ has no fixed but a contextual connotation.”

a 15. It was then concluded that the word “mineral” has no definite meaning but has a variety of meanings, depending on the context of its use. This is what this Court observed: (*Banarsi Dass Chadha case*⁶, SCC pp. 14-15, para 7)

b “7. ... In the context of the Mines and Minerals (Regulation and Development) Act, we have no doubt that the word ‘mineral’ is of sufficient amplitude to include ‘brick-earth’. As already observed by us, if the expression ‘minor mineral’ as defined in the Act includes ‘ordinary clay’ and ‘ordinary sand’, there is no earthly reason why ‘brick-earth’ should not be held to be ‘any other mineral’ which may be declared as a ‘minor mineral’. We do not think it necessary to pursue the matter further except to say that this was the view taken in *Laddu Mal v. State of Bihar*¹⁰, *Amar Singh Modi Lal v. State of Haryana*¹¹ and *Sharma & Co. v. State of U.P.*¹² We do not agree with the view of the Calcutta High Court in *State of W.B. v. Jagadamba Prasad Singh*¹³, that because nobody speaks of ‘ordinary earth’ as a mineral it is not a minor mineral as defined in the Mines and Minerals (Regulation and Development) Act.”

d 16. The decision of this Court in *Banarsi Dass Chadha*⁶ squarely answers the question posed before us. However, the learned Senior Counsel for the appellants heavily relied upon a subsequent decision of this Court in *V.P. Pithupitchai v. Govt. of T.N.*¹⁴ and submitted that “ordinary earth” is not comprehended by the expression “mineral”. That was a case where the question was whether seashells could be termed to be “mineral” within the meaning of the 1957 Act. This Court referred to earlier decisions viz. *State of M.P. v. Mahalaxmi Fabric Mills Ltd.*¹⁵, *Bhagwan Dass*⁵ and *Banarsi Dass Chadha*⁶ and also noticed the meaning of the word “mineral” noted in (i) *Webster’s Third New International Dictionary, 1968*; (ii) *Funk and Wagnalls’ Standard Dictionary, International Edn., Vol. II*; (iii) *Oxford Illustrated Dictionary*; and (iv) *Grolier International Dictionary, Vol. II*.

f 17. We deem it appropriate to reproduce para 13 wherein meaning of the word “mineral” noted in the aforesaid dictionaries was noticed: (*V.P. Pithupitchai case*¹⁴, SCC p. 539)

g “13. This is in keeping with the meaning given in the several dictionaries referred to by the High Court to determine the meaning of the word ‘mineral’ which are reproduced:

10 AIR 1965 Pat 491
11 AIR 1972 P&H 356
12 AIR 1975 All 386
13 AIR 1969 Cal 281
14 (2003) 9 SCC 534
15 1995 Supp (1) SCC 642

(i) *Webster's Third New International Dictionary*, 1968 defines 'mineral' as:

'a solid homogeneous crystalline chemical element or compound (as diamond or quartz) that results from the inorganic processes of nature and that has a characteristic crystal structure and chemical composition or range of compositions ... something that is neither animal nor vegetable (as in the old general classification of things into three kingdoms: animal, vegetable, and mineral.)'

(ii) *Funk and Wagnalls' Standard Dictionary*, International Edn., Vol. II:

'a naturally occurring, homogeneous substance or material formed by inorganic processes and having a characteristic set of physical properties, a definite range of chemical composition, and a molecular structure usually expressed in crystalline forms.... Any inorganic substance, as ore, a rock, or a fossil.'

(iii) *Oxford Illustrated Dictionary*:

'Substance (e.g. metal, coal, salt) got by mining....
... (chem.) element or compound occurring naturally as a product of inorganic processes....
... substance which is neither animal nor vegetable.'

(iv) *Grolier International Dictionary*, Vol. II:

'any naturally occurring, homogeneous inorganic substance having a definite chemical composition and characteristic crystalline structure, colour and hardness....
... Any of various natural substances.
(a) An element, such as gold or silver.
(b) A mixture of inorganic compounds, such as hornblende or granite.
(c) An organic derivative, such as coal or petroleum ... any substance that is neither animal nor vegetable; inorganic matter.' "

18. In *V.P. Pithupitchai*¹⁴ this Court did not consider whether seashells were covered within the residuary entry in the Second Schedule but considered the correctness of the High Court's view whether seashell is limeshell within the meaning of Item 28 of the Second Schedule. In para 15 of the Report, the following observations were made: (SCC p. 540)

"15. A distinction must be drawn between (i) a substance identified as a mineral, (ii) a substance containing minerals (for example bones which contain large percentages of calcium and phosphate and to some extent carbonate), and (iii) a substance which may be the original source of a mineral (for example plants which after being subjected to millions of years of geological processes ultimately become coal). In the first case, the classification of a substance as a mineral is simple. But the

a bones in the second class and trees in the third class can hardly be termed to be minerals although they may contain or ultimately result in a mineral. Seashells may, like bones, *contain* calcium carbonate, and may also like trees, through a geological process result in a mineral such as limestone. But it cannot be said that a seashell in its original form is a mineral.” (emphasis in original)

b 19. In our view, the decision of this Court in *V.P. Pithupitchai*¹⁴ is substance specific and not of much help in deciding the case in hand for more than one reason. In the first place, in that case the Court was not concerned with the power conferred upon the Central Government to declare a substance “minor mineral” in exercise of the power conferred on it under Section 3(e) of the 1957 Act. Secondly, and more importantly, in that case the Court was called upon to determine the correctness of the High Court’s opinion whether a seashell is limeshell within the meaning of Item 28 of the Second Schedule to the 1957 Act. It is true that in para 15 of the Report, this Court drew distinction between (i) a substance identified as a mineral, (ii) a substance containing minerals, and (iii) a substance which may be the original source of mineral and then it was held that seashell in its original form is not a mineral but, we are afraid, the test applied by this Court in *V.P. Pithupitchai*¹⁴ is not of universal application.

c d 20. The learned Senior Counsel for the appellants submitted that as there is no definition of “mineral” in the 1957 Act or the 1963 Rules, dictionary meaning of the word “mineral” is most pertinent and apt to the context. In this regard, he referred to *Black’s Law Dictionary* (6th Edn.) wherein the meaning of the “mineral” is noted to be an inorganic substance which is homogeneous in structure and similar in the composition when found on or under the soil bed. The learned Senior Counsel would submit that “ordinary earth” (sadharan mitti) is not covered by the definition of “mineral” as noted above. He also submitted that one cannot equate “ordinary earth” (sadharan mitti) with “ordinary clay” and “ordinary earth” is not like “ordinary clay”.

e f 21. The learned Senior Counsel argued that *Banarsi Dass Chadha*⁶ was a case relating to “brick earth” and there was no cause of action, no plea and no argument raised as regards “ordinary earth” and the remark in passing about “ordinary earth” or the judgment of the Calcutta High Court in *State of W.B. v. Jagadamba Prasad Singh*¹³ at the fag end is obiter and not part of law laid down by this Court. According to him, *Banarsi Dass Chadha*⁶ is not an authority or precedent for the purpose of the present case and it is the ratio in *V.P. Pithupitchai*¹⁴ that governs and binds the case.

g 22. It is appropriate to reproduce the meaning of the word “mineral” noted in *Black’s Law Dictionary* (8th Edn.) since it is a later edition. It reads thus:

h “*mineral, n. 1.* Any natural inorganic matter that has a definite chemical composition and specific physical properties that give it value <most minerals are crystalline solids>. (Cases: Mines and Minerals 48 CJS *Mines and Minerals* §§ 4, 140-142.) 2. A subsurface material that is

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explored for, mined, and exploited for its useful properties and commercial value. 3. Any natural material that is defined as a mineral by statute or case law.”

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23. A survey of various decisions referred to hereinabove would show that there is wide divergence of meanings attributable to the word “mineral” and that in judicial interpretation of the expression “mineral” variety of tests and principles have been propounded; their application, however, has not been uniform. Insofar as dictionary meaning of the word “mineral” is concerned, it has never been held to be determinative and conclusive. The word “mineral” has not been circumscribed by a precise scientific definition; it is not a definite term. The proposition that the minerals must always be subsoil and that there can be no minerals on the surface of the earth has also not found favour in judicial interpretation of the word “mineral”. The term “mineral” has been judicially construed many a time in widest possible amplitude and sometimes accorded a narrow meaning. Pithily said, its precise meaning in a given case has to be fixed with reference to the particular context.

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24. We find ourselves in agreement with the view expressed in *Banarsi Dass Chadha*⁶ that the word “mineral” is not a word of art and that it is capable of multiplicity of meanings depending upon the context and that the word “mineral” has no fixed but a contextual connotation. The test applied by this Court in *V.P. Pithupitchai*¹⁴ in holding seashell not a mineral because in its original form it is not a mineral, in our view, is not determinative and conclusive in all situations when a question arises as to whether a particular substance is a mineral or not. It is worth noticing that any natural material that is defined as a “mineral” by a statute or case law may also be covered by the expression “mineral” as noted in *Black’s Law Dictionary* (8th Edn.). The common parlance test that because nobody speaks of “ordinary earth” as a “mineral” has not been accepted by this Court in *Banarsi Dass Chadha*⁶. As a matter of fact, this Court in this regard specifically disagreed with the view of the Calcutta High Court in *Jagadamba Prasad Singh*¹³.

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25. In the context of Section 3(e), what we have discussed above, we hold, as it must be, that “ordinary earth” is comprehended within the meaning of the word “any other mineral”. We adopt the reasoning given by the three-Judge Bench in *Banarsi Dass Chadha*⁶ that if the expression “minor mineral” as defined in Section 3(e) of the Act includes “ordinary clay” and “ordinary sand”, there is no reason why “ordinary earth” should not be comprehended within the meaning of the word “any other mineral”.

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26. Having held that “ordinary earth” is comprehended within the meaning of the word “any other mineral” in Section 3(e) of the 1957 Act, the question that now arises is whether the exercise of power by the Central Government under Section 3(e) of the 1957 Act in declaring the use of “ordinary earth” for filling or levelling purposes in construction of embankments, roads, railways and buildings as “minor mineral” is justified.

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27. It was contended on behalf of the appellants that the Central Government cannot include any matter based on mere use nor can it make

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purpose-based distinction. Once the “ordinary earth” is found to be comprehended within the meaning of the word “any other mineral” for the purposes of Section 3(e) of the 1957 Act, in our view, there is no impediment for the Central Government to include or exclude the same based on a particular use or purpose. User can be a valid reason for exclusion as well as inclusion in declaring mineral, “minor mineral” in exercise of the powers conferred upon the Central Government under Section 3(e) of the Act and exercise of any such power based on use or purpose cannot be said to be arbitrary. We, accordingly, find no merit in the contention of the learned Senior Counsel for the appellants that the declaration of “ordinary earth” for the uses and purposes mentioned in the Notification dated 3-2-2000 is ultra vires the power conferred upon the Central Government.

28. The learned Senior Counsel for the appellants also argued that demand of royalty can be raised only against a lessee or mining permit-holder and the demand raised against the appellants, who are neither lessees nor mining permit-holders, is violative of the 1963 Rules.

29. The High Court while dealing with the aforesaid contention held:

“Now coming to the question as to whether the amount of royalty can be recovered from the petitioners who are the contractors and suppliers of ordinary earth and other minor minerals, we are of the considered opinion that the royalty is payable on excavation of any minor mineral. The liability is primarily of the person holding the mining lease or a mining permit but if a person does not hold any mining lease or a mining permit, the liability does not cease. Any person dealing in a minor mineral is required to maintain and keep documents to show that the royalty has been paid and in order to ensure that due royalty on minor minerals has been paid within the State of U.P., the State Government by the three government orders have provided for producing copies of declaration in Form MM 11 and treasury challan evidencing deposit of royalty. It cannot be said that any undue restrictions have been placed upon the right to carry on trade or business or it is without the authority of law.”

30. The 1963 Rules have been framed by the Government of Uttar Pradesh in exercise of its power conferred under Section 15 of the 1957 Act. These Rules have adopted the definition of “minor mineral” as provided in clause (e) of Section 3 of the 1957 Act. The Rules make provision for grant of mining lease; payment of royalty/dead rent; conditions of mining lease and permit; contraventions, offences and penalties for unauthorised mining including consequences of non-payment of royalty, rent or other dues; powers of the District Officers and the Officers of the Directorate of Geology and Mining for the purpose of assessment of royalty; collection of royalty or dead rent through contractor; appeal against order passed under these Rules by the District Officer and remedy by way of revision to the State Government. Vide Notification dated 20-3-2001 First Schedule appended to the 1963 Rules was amended and rate of royalty for “ordinary clay”/“ordinary earth” was fixed at Rs 4 per cubic metre.

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31. Admittedly, demand notices came to be issued to the appellants by the Office of the District Officer bringing to their notice that they have extracted “ordinary earth” covered by the definition of “minor mineral” without any permission or permit and that they have also not paid royalty. The appellants were, thus, called upon to make payment of royalty. However, neither from the material placed before us nor from the judgment of the High Court, it transpires that the appellants responded to the said notices and raised the objection that demand of royalty cannot be raised against them as they were not lessees or mining permit-holders. In any case, if they raised such objection, they did not await decision of the authorities in this regard. a
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32. The 1963 Rules provide complete machinery for assessment and recovery of royalty and consequences of non-payment of royalty. These Rules also provide remedy to an aggrieved person against an order passed under the Rules by the District Officer demanding payment of royalty. The appellants, having failed to pursue the remedy provided under the 1963 Rules as regards recovery of royalty from them, we are afraid, the view taken by the High Court does not call for any interference in our jurisdiction under Article 136 of the Constitution. c

33. Consequently, all these appeals fail and are dismissed with no order as to costs. d

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(BEFORE TARUN CHATTERJEE AND V.S. SIRPURKAR, JJ.)

PARMINDER KAUR . . . Appellant;

Versus

STATE OF UTTAR PRADESH AND ANOTHER . . . Respondents. e

Criminal Appeal No. 1941 of 2009[†], decided on October 26, 2009

A. Criminal Procedure Code, 1973 — S. 482 — Circumstances warranting quashing of prosecution — Malicious prosecution — Alleged facts disclosing no offence — Appellant, an old lady, prosecuted for tampering with certified copy of revenue records wherein dates “6-5-2002” and “7-5-2002” were alleged to have been changed to “16-5-2002”, “17-5-2002” and “27-5-2002” and tampered copy was made use of in civil suits — On appreciation of facts found that appellant was not to gain anything in the civil suits by tampering — Facts also did not disclose commission of offences under Ss. 420, 467, 468 and 471 IPC — It was also doubtful whether appellant had filed civil suits or they were filed by someone else in her name — Prosecution, held, was abuse of process of law and therefore quashed (Paras 25, 28, 35, 36 and 40 to 43) f
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K. Ramakrishna v. State of Bihar, (2000) 8 SCC 547 : 2001 SCC (Cri) 27, referred to

Bharat Parikh v. CBI, (2008) 10 SCC 109 : (2008) 3 SCC (Cri) 609, cited

State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426, relied on

[†] Arising out of SLP (Crl.) No. 4867 of 2007. From the Judgment and Order dated 3-8-2007 of the High Court of Judicature at Allahabad in Crl. Misc. Application No. 10377 of 2004 : (2007) 6 All LJ (NOC) 954 h

