

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL
BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 599 OF 2024

IN THE MATTER OF:

SURINDER SINGH MANHAS

.....APPLICANT

Versus

U.T. OF JAMMU & KASHMIR & OTHERS

.... RESPONDENTS

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PLACE - PATHANKOT
FILED ON : 26.08.2025


APPLICANT
THROUGH COUNSEL
MRS. MENA TARNAICH,
ADVOCATE FOR APPLICANTS
DISTRICT COURTS PATHANKOT



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U.T. OF JAMMU & KASHMIR & OTHERSRESPONDENT

**REJOINDER BY THE APPLICANT TO THE REPORT OF RESPONDENT
NO.1 & REPLY FILED BY THE RESPONDENTS NO. 1, 2,4,5,7& 8**

MOST RESPECTFULLY SHOWETH:

1. That the present Petition was filed by the applicants highlighting the inaction of respondent no.1 to 9 in implementing the mandatory provisions of law thereby promoting illegal mining by the private respondents no. 10 to 12.
2. That the applicants had raised substantial question of law highlighting that EC was issued to the private respondent no. 9 for a land bearing Khasra no.2254/1998 owned by Anchal Singh & Others measuring 9.98 hectares situated at village Taraf Tajwal , dist Kathua without any replenishment study .
3. That the mining was allowed on a public property i.e. Gair Mumkin Dariya which is a water source for which no mining permission could have been permitted further the respondent no.9 along with the mining lease was allowed to run the Stone crusher M/s Om Sai Screener in the same land by issuing CTO.
4. That in furtherance of notice issued by the Hon'ble Tribunal, Respondent no.1 filed its report & reply was also filed by the respondent no. 1,2,4,5,7& 8 .
5. That in common all the respondent gave more or less similar reply for the mining activity of respondent no.9 but has not explained how the Stone Crushers respondent no. 11 & 12 are being operational without CTO.
6. That in this background the Applicant herein is submitting its Response in the following manner.
7. That the respondent no. 8 in its reply at para no.6 has stated that "The respondent no.9 Shri. Bhanu Pratap Singh , was issued Environmental Clearance by Jammu

& Kashmir Environmental Impact Assessment Authority (J&K EIAA), under proposal no. SIA/JK/MIN/51825/2020 dated 16.07.2021(Annexure 16 of the OA) for River Bed Material Mine located at Village Taraf Tajwal Tehsil & district Kathua over an area of 9.98 Ha . As per EC ,it is stated therein that Letter of Intent was issued by the Geology & Mining Department J&K Government vide letter dated 03.09.2019.”

That the respondent after stating various provisions of law in its reply prayed for the appropriate order in the interest of justice.

8. That the respondent no.1 in its report has submitted that ‘ the CTO (Renewal) granted to the said lease holder was lapsed on 16.07.2024 & no further renewal is granted. Moreover the Environmental Clearance granted by the JKEIAA was also expired on 16-07-2024. The complaint is against the preparation of DSR replenishment of lease which is prepared by the Geology & Mining department & submitted to the JKEIAA.” & in para no.4 of the report it has been alleged that no activity is being found carrying at the private mining block of Bhanu Pratap Singh.
9. That the respondent no.5 in its para no.1 stated that on the proposal No. SIA/JK/MIN/51825/2020 of Respondent no.9 ‘After examining /Scrutinizing the documents , the case was forwarded to the JKEAC for its appraisal” ‘ During the appraisal it was observed that replenishment data were not available in the DSR.” It was stated by the Geology & the mining Department that the replenishment studies shall be carried out regularly during the currency of the mining operation in all the blocks including the private block & submit the replenishment report to JKEIAA.” Further it is stated that JKEAC recommended the case to the JKEIAA for grant of EC to the said project ,subject to certain condition & accordingly EC was issued to the PP on vide JKEIAA/2020/232/1813-27 dated 16.07.2021 , Annexure B of the reply. That the respondent no. 5 has also given reference of Annexure –C whereby in the issues related to the replenishment studies on Sand/Bajri mining projects, the committee of EAC is of the view that ‘ in such states like Uttarakhand, Uttar Pradesh, Himachal Pradesh, Jammu & Kashmir, Haryana & Bihar the replenishment study is not required at the time of EC application & PP Shall submit the replenishment study after 02 years of the grant of EC”. In para no.2 of the reply respondent no.5 has stated that the Geology & Mining department submitted the Replenishment report but the same was not recommended by the JKEAC in its 105th meeting on 21-01-2023.

10. It is pertinent to mention here that when the private respondent made an application for the mining lease before the respondent no.2, the verification of title was sought from the Deputy Commissioner respondent no..... & the title verification letter no. DCK/SQ/2019-20/901 dated 10.08.2019 Annexure -9 of the OA clearly defines the proprietary of the land with Anchal Singh & Others with kind of soil as 'Gair Mumkin Dariya', further the title verification discloses that Bhanu Pratap Singh has obtained the possession of land measuring 203 Kanal 19 marla under Khasra no. 2254/1938 at village Taraf Tajwal from 12 different Lease deeds. The said Title verification no where discloses the purpose of the lease deed or nor discloses whether the lease deeds were a registered document or specifically allowed the respondent no.9 to apply for the mining lease in his name to extract the RBM from Khasra no. 2254/1938. The title verification also do not disclose the names of other co-sharers in the said Khasra no. 2254/1938. That more importantly the title verification clearly mentions the land as 'Gair Mumkin Dariya'.

That CHAPTER II of WATER RESOURCES (REGULATION AND MANAGEMENT) ACT, 2010 IN ITS SECTION 3. DEFINES THAT :

- (1) Every water source in the State is, and shall remain, the property of the Government and any proprietary ownership, or any riparian or usage right, on such water resources vested in any individual, group of individuals or any other body, corporation, company, society or community shall, from the date of commencement of the Act, be deemed to have been terminated and vested with the Government.
- (2) No person shall use any water from any source (surface or ground), or collect or extract any material from such water sources except in accordance with the provisions of the Act.

That the section 2 of the same act in clause (zze) defines "water source" which means "a river and its tributaries, stream, nallah, canal, spring, pond, lake, water course, underground water or any other source from which water becomes available for use but does not include a shallow well in any private land for domestic use of the owner thereof".

The section 2 clause (zzc) defines "water course" which means any river, tributaries, nallah, stream, canal, khad, flood channel, diversion channel, outlet, natural drainage or any other means of flow or drainage of water whether perennial or seasonal ;

'Gair mumkin' land means uncultivable land that cannot be used for animal husbandry, horticulture, agriculture or other related activities

'Darya' specifically refers to a river or stream therefore

Gair Mumkin Dariya represents land that is part of a river or stream and such land is typically under the control and management of the government or relevant authorities for water resource management purpose, buying or selling Gair mumkin Dariya land is not permissible as it would disrupt the natural water flow and ecosystem. That the Jammu and Kashmir Government is currently undertaking a process to demarcate these lands to prevent encroachment and ensure that preservation. The demarcation process aims to delineate the boundaries of water bodies like Gair Mumkin khads, daryas and Nalas preventing illegal construction and protecting this critical water resources.

Meaning thereby as per section 3 of the said Act no private party had the authority to give the land bearing Khasra no. 2254/1938 on lease being a government property.

That the then Deputy Commissioner Kathua Om Parkash Bhagat in the capacity of Deputy Commissioner Kathua issued NOC Annexure A-13 already on file enclosed with OA without following the Statutory Mandatory conditions to be followed for Mining Lease as per the Sustainable Sand Mining Management Guidelines, 2016, Enforcement & Monitoring Guidelines for Sand Mining 2020 & 22.08.2020 & Jammu & Kashmir Minor Mineral Concession Storage, Transportation of Minerals and Prevention of Illegal Mining Rules, 2016 issued & totally ignoring the provisions of Section 3 of WATER RESOURCES (REGULATION AND MANAGEMENT) ACT, 2010 in respect of private land measuring 9.98 hectare situated at village Taraf Tajwal, Tehsil & dist Kathua in favour of Bhanu Pratap Singh.

That here the applicant wants to bring in the notice of Hon'ble Tribunal that the then Deputy Commissioner Kathua Mr. Om Parkash Bhagat further issued Mining plan Annexure -11 of OA dated 26.02.2020 to respondent no.9 for a Public Land without any auction & without following the mandatory provision in a slip shot manner

In the present case, Environmental clearance was issued on 16.07.2021 and on the date of issuance of the EC, the guidelines of 2020 had come in force. The relevant considerations which are to be kept in mind for sand/gravel mining while approving

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the Mining Plan are reflected in clause 4.3 of the guidelines of 2020 and in terms of clause 4.3(b), the distance between sites for sand and gravel mining depends on the replenishment rate of the river clause 4.3 reads as under:-

"Following considerations shall be kept in mind for sand/gravel mining while approving mining plan:

- a) Parts of the river reach that experience deposition or aggradation shall be identified. The Leaseholder/ Environmental Clearance holder may be allowed to extract the sand and gravel deposit in these locations to manage aggradation problem.
- b) The distance between sites for sand and gravel mining shall depend on the replenishment rate of the river. Sediment rating curve for the potential sites shall be developed and checked against the extracted volumes of sand and gravel.
- c) Sand and gravel may be extracted across the entire active channel during the dry season.
- d) Abandoned stream channels on the terrace and inactive floodplains be preferred rather than active channels and their deltas and flood plains. The stream should not be diverted to form the inactive channel.
- e) Layers of sand and gravel which could be removed from the river bed shall depend on the width of the river and replenishment rate of the river.
- f) Sand and gravel shall not be allowed to be extracted where erosion may occur, such as at the concave bank.
- g) Segments of the braided river system should be used preferably falling within the lateral migration area of the river regime that enhances the feasibility of sediment replenishment....."

That the applicant wants to bring in the notice of the Hon'ble Tribunal that Sh. Om Parkash Bhagat is the real brother in law (brother of the wife) of now Dismissed the then District Mining Officer (DMO) of Kathua namely Bodh Raj S/o Chuni Lal who is facing trial in FIR No: 8/2024 & FIR No.9/2024 which is registered by Anti Corruption Bureau (Jammu)-U/section 7. 13(1)(a) read with section 13(2) of Prevention of Corruption Act 1988. The copy of the FIR NO. 8 & 9 is annexed herewith as Annexure- X & Annexure-Y.

That Mr. Bodh Raj is having number of Stone crushers & mining blocks in his wife's & relatives name in Jammu & Kashmir region.

That the applicant here again wants to bring in the notice of the Hon'ble Tribunal letter no. 28-B/INT/CIV/PHQ/2021/3134 With Subject -Mining Mafia at Kathua sent From the office of Director General Of Police J & K and addressed to The Chief Secretary (UT) of Jammu & Kashmir ANNEXURE NO. A- 22 of OA in which The Director General Of Police J & K has clearly mentioned that District Mining Officers are hand in glove with the mining contractors , the important part of the said letter is reproduced as under-

" I am directed to submit that as per the report sought from the SSP Kathua Shri. Bodh Raj , District mining officer Kathua is directly & indirectly hand in glove with the mining contractor particularly with one Bhanu Pratap Singh S/o Pyar Singh r/o Tarda (Mehtabpur) Kathua and has managed his transfer in district Kathua for the third time. More over a computer operator , namely Monty and Kuldeep Kumar chowkidar in DM office Kathua has nexus with mining Mafia /royalty agents and are working as District mining officer Kathua. It is worthwhile to mention here that during the current year, 101 vehicles have been seized by district police Kathua for illegal mining. Submitted for further course of action please."

That the Letter of Intent Annexure A-10 of OA which was issued on 03.09.2019 & in its 2nd last para of LoI is reproduced as under -

Whereas you have applied for the grant of mining lease over property land where the mineral does not vest in the Government /State Land wherein the mining lease is to be granted as per the (2) proviso of Rule 27 of 'The Jammu & Kashmir Minor Mineral Concession Storage , Transportation of Minerals & Prevention of illegal Mining Rules 2016'.

And the respondent no. 9 was asked to submit the mining Plan & environmental clearance in pursuance of Rule 6 & 13 of the Jammu & Kashmir Minor Mineral Concession Storage, Transportation of Minerals & Prevention of illegal Mining Rules 2016.

Section 27 of Jammu and Kashmir Minor Mineral Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining Rules, 2016 is described as under -

27. Procedure for grant of Mining lease.

- Any minor mineral deposits may be granted for a mining lease by the Government for a period not less than 05 years but not exceeding 15 years depending upon the nature of the mineral deposit:

Provided that where minerals are deposited in the State land, the lease shall be granted after following an open auction process as provided under Chapter-VI of these rules excluding-

(i) the quarry areas ancestrally occupied and certified by the revenue authorities in this regard ;

And

(ii) areas earmarked for operation by such public sector undertaking as the Government may direct

: Provided further that Director shall constitute one or more Committees for identification of minor mineral blocks having an area not less than 05 hectares but not more than 50 hectares which shall be put to open auction after approval from the competent authority.

But in the case of Respondent no.9 no Committees for identification of minor mineral blocks was formed nor the land under Respondent no.9 was put to open auction after approval from the competent authority, which clearly points out the collusiveness of the respondents with respondent no.9 in illegal mining in district Kathua. The copy of the Act is Annexure AA-1

11. That it is also surprising how the respondent no.5 'After examining /Scrutinizing the documents as stated in its reply in para no.1 respondent no.2 recommended the proposal No. SIA/JK/MIN/51825/2020 of Respondent no.9 to JKEAC for its appraisal'. That JKEAC also did not made any objection on this point & on the assurance of respondent no.5 as stated in its reply in para no.1 JKEIAA without any replenishment data /report issued Environmental clearance to the respondent no.9 .

Secondly the Annexure -C mentioned in the reply of respondent no.5 is the issues related to the replenishment studies on Sand mining projects & not that of RBM as in the case of respondent no.9. That the annexure -C of the reply in para no.1.3 clearly states that -

' The ministry has published the sustainable sand mining guidelines &

recommends the condition that - ' Project proponent shall decrease /stop the mining of Sand, Bajri and Boulders, in case the replenishment is lower than the approved rate of production , till the replenishment is completed' .

But as per Annexure –D of the same reply it is stated that the JKEIAA rejected the Replenishment report with the direction to the Geology & Mining Department to resubmit the report but the Annexure –D o the reply in the matter of Respondent no.9 has mentioned that '**No replenishment data has been provided against the private lease measuring of 9.98Ha of Bhanu Pratap Singh at Taraf Tajwal in River Ravi**'. So, it is very much clear that rejection of alleged replenishment report does not apply to the matter of Respondent no.9 Bhanu Pratap Singh where no replenishment data was provided moreover till date no replenishment date /report for the mining site of Respondent no.9 Bhanu Pratap Singh is available with the respondents. That the respondent no.5 has adopted a clever techniques & has misinterpreted the Annexure –C & D to mislead the Hon'ble Tribunal.

That if we see the conditions laid down in the Annexure B of the reply of Respondent no.5 i.e. the EC issued to the respondent no.9 , it clearly says that the EC is subject to the orders /judgements of Hon'ble Supreme Court of India .

That Nationa Green Tribunal in **Junaid Ayubi vs State Of Haryana** Appeal No. 19/2022 enclosed as Annexure AA-2 explains the different provisions of law as under -

Clause 4 of the guidelines of 2020 deals with Requirements for Monitoring & Enforcement and its relevant sub-clauses are as under:-

ii) The mining lease auctioned by State government as per their Minor Mineral Concession Rules are granted of Letter of Intent (LoI), but it has been observed that many of the sites are not suitable w.r.t environmental aspects. In most of the cases, the unplanned grant of mining lease leads to formation of cluster and/or contiguous cluster of small mining leases which sometimes is difficult to regulate and monitor. In order to address such issues, more emphasis is required on the preparation of District Survey Report and its format for reporting.

iv) There is no practice for regular replenishment study to ascertain the rate of depositing, plan and section needs to be prepared based on the restrictions provided in letter of intent and provisions of Sustainable Sand Mining Management Guidelines 2016.

viii) The river reaches with sand provide the resource and thus it is necessary to ascertain the rate of replenishment of the mineral. Regular replenishment study

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needs to be carried out to keep a balance between deposition and extraction. This document provides the procedure to be followed for conducting replenishment study.

4.1.1 Preparation of District Survey Report.

"Sustainable Sand Mining Guidelines, 2016" issued by MoEF&CC requires preparation of District Survey Report (DSR), which is an important initial step before grant of mining lease/Lol. The guidelines emphasize detailed procedure to be followed for the purpose of identification of areas of aggradation/ deposition where mining can be allowed and identification of areas of erosion and proximity to infrastructural structures and installation where mining should be prohibited. Calculation of annual rate of replenishment, allowing time for replenishment after mining, identification of ways of scientific and systematic mining; identifying measures for protection of environment and ecology and determining measures for protection of bank erosion, benchmark (BM) with respect to mean Sea Level (MSL) should be made essential in mining channel reaches (MCR) below which no mining shall be allowed.

Therefore, preparation of District Survey Report is a very important step and sustainable sand mining in any part of the country will depend on the quality of District Survey Report.

a) District Survey Report for sand mining shall be prepared before the auction/e-auction/grant of the mining lease/Letter of Intent (LoI) by Mining department or department dealing the mining activity in respective states...."

20. Clause 5 deals with replenishment study and provides as under:-

"5.0 REPLENISHMENT STUDY The need for replenishment study for river bed sand is required in order to nullify the adverse impacts arising due to excessing sand extraction. Mining within or near riverbed has a direct impact on the stream's physical characteristics, such as channel geometry, bed elevation, substratum composition and stability, in-stream roughness of the bed, flow velocity, discharge capacity, sediment transport capacity, turbidity, temperature etc. Alteration or modification of the above attributes may cause an impact on the ecological equilibrium of the riverine regime, disturbance in channel configuration and flow-paths. This may also cause an adverse impact on instream biota and riparian habitats. It is assumed that the riparian habitat disturbance is minimum if the replenishment is equal to excavation for a given stretch. Therefore, to minimize the adverse impact arising out of sand mining in a given river stretch, it is imperative to have a study of replenishment of material during the defined period."

21. As per clause 6.1, the mining operation is required to be strictly carried out in accordance with the approved mining plan.

Clause 6.1 reads as under:-

"6.1 Mining Operation:

The mining operations should be strictly carried out in accordance with the approved mining plan and after complying with all the conditions stipulated in Environmental & Other Statutory Clearance. Mine owner shall follow the operational procedure (for sale, dispatch, storage, reserve reconciliation and transportation) as may be defined by the concerned state government in its monitoring guidelines. Mine owner should comply with the recommendation and suggestion made by the High-Power Committee as applicable."

22. Clause 8.1 of the guidelines of 2020 relates to pre-requisite for starting sand mining operation. Sub-clause (i) necessitates preparation of a comprehensive mining plan and prohibits mining in the area which has not been identified in the comprehensive mining plan of the district. Sub-clause (ii) requires conducting replenishment study on the regular basis. In terms of clause 4.3, the details of replenishment study conducted for all the years needs to be included at the time of review of the mining plan.

A cogent reading of above clauses of 2020 guidelines reveal that replenishment study is necessary for grant of EC for sand mining.

12. That respondent no. 1,2,4 & 7 in their reply at para no. 2 has stated that the respondents has imposed penalty of Rs. 34,74,350/- on M/s OM Sai Screener & has also enclosed copies of Notice dated 11.09.2019 Annexure XVII appended with its reply. But the respondent no where in their reply has mentioned about the recovery of the said penalty nor they have produced any R-Notice or Receipt of recovery of the said amount from the respondent no.9 .

That surprisingly without recovery of the penalty the respondent no.9 was issued Environmental clearance dated 16.07.2021 contrary to the Standard Condition no. iii. Of EC - ' Mining operation shall not be commenced till the entire compensation levied, if any ,for illegal mining paid by the project proponent ' .

That clause X - of the EC clearly makes it mandatory to obtain necessary prior permission of the competent authorities for drawl of requisite quantity of surface water & from CGWA for withdrawal of ground water for the project but no such permission was ever obtained from CGWA by respondent no.9. That Air quality monitoring & preservation, Water quality monitoring & preservations safeguards as described in clause a & b in EC 7 other safeguards was also not followed by respondent no.9 .

That in clause 10 of EC it has been clearly stated that

' An inspection Committee comprising of Additional Dy. Commissioner, District Mineral Officer , representative of PCB, Executive engineer Irrigation & Flood control departmentcertify at the end of each monsoon ,that sufficient replenishment of the shall not adversely affect the hydrological & ecological settings in the area'' but in the matter of respondent no.9 no Replenishment study of the mining site has taken place till date.

That the respondent no.1 in its report has stated that no mining activity is being found carrying in the Mining site of Respondent no. 9 & to prove there averment the respondent no.1 has also produced photographs . That the petitioner is enclosing the

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Google Earth Map for the Mining Site of Respondent no.9 appended as Annexure A AA-3 To AA- 7 for April 2021, October 2021, May 2022, March 2024 & March 2025 where the excessive extraction of minerals by illegal mining can clearly be seen . That as per the averment of the report of respondent no.1 the CTO of respondent no.9 has expired on 17.07.2024 & after that there is no mining activity but in Annexure AA-8 the photograph taken by the petitioner from his mobile with Longitude & latitude it can clearly be seen that there is activity of illegal mining with the help of heavy Pock lane machines on the mining site of respondent no.9 & the Google Earth Map of March 2025 Annexure AA-7 clearly shows the large scale of excavation & over exploitation due to illegal mining activity even after the expiry of the CTO.

13. That the respondent no. 1, 2, 4 & 7 in the reply at para no. 2 has stated that they have imposed staggering penalties on the different Stone crushers which were involved in illegal mining . That in Sr. no 17 of the table the penalty imposed on respondent no.9 M/s Om Sai Screener is Rs. 34,74,350 /- & at Sr no. 10 & 18 penalty imposed on M/S Jai Rajputana, Ravi River Taraf Tazwal is Rs. 2,59,21,188/- Rs. 5,59,456/- respectively total of which comes to Rs . 26480644/- (Two Crore Sixty Four Lac Eighty Thousand Six Hundred Forty Four only) . That the answering respondent has also annexed copies of Notice dated 07.09.2019 Annexure X & notice dated 11.09.2019 as Annexure XVIII with its reply. That the respondent in para no. 4 has also stated that the respondent no.10 M/S New Rajputana Stone Crusher at Village Taraf Tazwal Kathua has obtained CTO from J&K State Pollution Control Board which is valid upto October 2025. That the respondent has also enclosed copy of CTO Annexure XIX, the said CTO is from 09-08-2024 to October 2025 i.e. the CTO was obtained by the respondent no.10 in collision with the other respondents during the pendency of the Original Application under lis which was filed on But the respondent no where in their reply has mentioned about the recovery of the said penalty nor they have produced any R-Notice or Receipt of recovery of the said amount from the respondent no.10. That surprisingly without recovery of the penalty amount the respondents during the pendency of the petition under reply issued CTO (Annexure XIX) valid from 09-08-2024 to October 2025.

14. That it is also pertinent to mention here that the applicant had asked the

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information about legality of the operation of the M/s Vasudev Constructions & M/s New Rajputana Stone crusher and had asked the concerned authority to give the status of Consent to operate (CTO) for above named Firms. That the Regional Director J&K Pollution Control Committee vide its reply dated 16.03.2024 informed that "As per available record no such document (Consent to operate "CTO") pertaining to M/s New Rajputana Stone Crusher is available in this office.

That another office letter no. 1833-34/46 E dated 15.04.2024 addressed to District Mining Officer Kathua J&K whereby the Executive Engineer Pathankot Drainage cum Mining & Geology Division , Punjab who informed that while checking of vehicles a tipper no. RJ04GD4593 carrying over loaded mines & minerals was taken into custody which was in possession of A-form issued from M/s New Jai Rajputana Taraf Tajwal Kathua Stone crusher, the Copy of the RTI Information received is ANNEXURE 26 & 27 & the Copy of the office letter no. 1833-34/46 E dated 15.04.2024 along with A-forms are ANNEXURE A-28 to ANNEXURE A-30 already on file with the Original Application.

That above mentioned reply under RTI & the office letter no. 1833-34/46 E dated 15.04.2024 makes it clear that the Respondent no.10 M/s New Jai Rajputana Stone crusher was illegally operational without CTO .

15. That the Regional Director J&K Pollution Control Committee also vide its above mentioned reply dated 16.03.2024 ANNEXURE 26 & 27 for RTI application in regard to Respondent no.10 M/s Vasudev Constructions informed as under -

" Consent to operate was granted to M/s Vasudev Construction , Taraf Tajwal , Tehsil & district Kathua with validity period upto 01.2020, thereafter unit holder has failed to obtain periodical renewals as warranted under section 25/26 and section 21 of the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 respectively. " a stone crusher set up by the Mr. Chander Mohan Mahajan under the name and style of M/s Vasudev Construction , Taraf Tajwal Tehsil & district Kathua is currently operational in violation of laws that too without adequate pollution control devices /pollution control measures and valid consent from the JK Pollution Control Committee. "

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The J& K Pollution Committee also made an order to the Deputy Commissioner Kathua to get the Stone crusher of Mr. Chander Mohan Mahajan under the name and style of M/s Vasudev Construction Taraf Tajwal, Tehsil & district Kathua closed immediately and Mr. Chander Mohan Mahajan prop. M/s Vasudev Construction to cease the operation of the Stone Crusher forthwith. But despite the closure order (dated 22.12.2022 Annexure A-26 of OA) the above named Stone crushers are in operation illegally and are also involved in illegal mining activities , with the support and in Collision with the District Administration.

16. Therefore, in view of above detailed facts mentioned in the rejoinder & the OA the reply filed by s Respondents is liable to be rejected.

PRAYER

It is therefore humbly prayed before the Hon'ble Tribunal to kindly consider the aforesaid submissions filed by the Applicant in response to the reply filed by the Respondents no. No. 1, 2, 4, 5 7 & 8.

Verified that the Contents of
the above paras of the plaint
are true & correct to the best
of my knowledge & belief


Verified at Pathankot

On Dated- 26.-8.2025


.....Applicant
Through Counsel

Mrs. Mena Tarnaich
Advocate Pathankot



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH NEW DELHI

IN O.A. No. 599/2024

In the matter of

Surinder Singh Manhas

.....Applicant

Versus

U.T. Of Jammu & Kashmir & Others

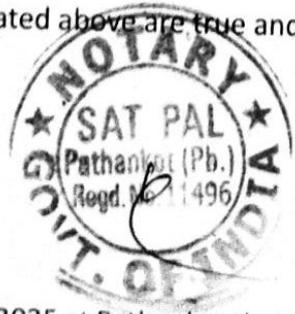
.....Respondent

AFFIDAVIT

I, Surinder Singh Manhas aged about 54 years S/o Sh. Karnail Singh r/o Village Dheera tehsil & dist Pathankot do hereby solemnly affirm and declare as under :

- 1. That I have field the accompanying Rejoinder to the to the Reply filed by the Respondent No. 1, 2, 4, 5, 7 and 8 and thus well being and acquainted with facts and circumstances of the case and thus competent to swear this affidavit.
- 2. That the accompanying Rejoinder has been drafted by my counsel under my instructions and contents thereof have been read over and explained to me in my vernacular which are true and correct to my knowledge, the contents thereof may kindly be read as part and parcel to this affidavit also and not repeated herein.
- 3. The contents as stated above are true and correct to my knowledge and belief.

This Document/Affidavit Made at Notary Regd. Sr. No 312 Page..... Dated 26/8/25



[Signature]
Deponent

Verification on 22.08.2025 at Pathankot that the contents of the present application are true and correct and nothing has been concealed therefrom.

~~ATTESTED~~
[Signature]
SAT PAL NOTARY
PATHANKOT (Pb)

[Signature]
Deponent

Certified copy of Form No. 08 by P/S ACB Central in the Court of Sp. Judge Anti-Corruption Jammu.

تھانہ پولیس اینٹی کورپشن بیورو بہاولپور
Police Station Anti-Corruption Bureau Central

(پورٹ اینڈ ایڈریس 153 ضلع)
First Information Report u/s 154 Cr.PC/173 BNSS

علت نمبر 08 سال 2024ء تھانہ پولیس اینٹی کورپشن بیورو بہاولپور... اکوٹھرائل جو صاحب جسٹریٹ کو ارسال ہوا۔

FIR No. 08 Year 2024 P/S Anti-Corruption Bureau Central Counterfoil which has been forwarded to the Learned Jurisdictional Magistrate

4) Investment in the name of his wife Smt. Rekha Devi, a Govt. teacher, and relatives by transferring of ₹ 54.75 lacs from Rekha Devi's J&K Bank account into the account of one Sh. Brij Bhusan Singh Jamsal for purchase of land in the name of Smt. Rekha Devi and benami in the name of relatives.

In this manner Sh. Bodh Raj intentionally enriched himself illicitly during the period of his service & is in possession of pecuniary resources/property disproportionate to his known sources of income.

The aforementioned facts constitute commission of offences punishable under section 13(1) (b) r/w 13 (2) of PC Act 1988 against the above named accused public servant namely Bodh Raj the then District Mineral Officer (DMO). Consequently, a case FIR No.08/2024 is registered in P/S ACB Central and investigation of the case is entrusted to Dy.SP. Deedar Singh, of ACB P/S Central, J&K, Jammu for investigation.

Superintendent of Police
Anti-corruption Bureau
Central J&K, Jammu

Certified to be a True Copy
Special Judge Anti-Corruption
Jammu

Verifying Officer,
Authorized U/s 75 B S A of
Bharatiya Sakshya Adhinyam

Handed over
at 2.30 pm.
24/9/24
2

تاریخ و وقت رسیدگی	15.07.2024
Date & Time of receipt Complaint	15.07.2024
تاریخ و وقت کے پاک پرچہ	24.08.2024 at 1230 Hrs
Date & time of Registration of FIR	24.08.2024 at 1230 Hrs
نام شقیٹ عدولہ بیت، قریب اکوٹھ	Through P/S ACB Central J&K Jammu
Name of Complainant with parentage and address	Through P/S ACB Central J&K Jammu
جرم عدولہ قانون جس کا ارتکاب ہوا	13(1)(b) r/w 13(2) PC Act 1988
Offence constituted with sections of law	13(1)(b) r/w 13(2) PC Act 1988
کب اور کہاں ہوا ارتکاب	2009 onwards Kathua/Jammu
Time & Place of Occurance	2009 onwards Kathua/Jammu
فاصلہ اور سمت از تھانہ	-
Distance & Direction from P/S	-
نام الزام طریقہ عدولہ بیت، سکوت	Bodh Raj s/o Chuni Lal R/o Nater Kothian, Muthi, Jammu Ken. 0810, Kathua
Name of the accused with Parentage & Address	Bodh Raj s/o Chuni Lal R/o Nater Kothian, Muthi, Jammu Ken. 0810, Kathua
تفصیل مال منقولہ مقدمہ ہذا	-
معلومات	-
Details of cases property & its value	-

جناب عالی مضمون تا مش یہ ہے کہ

Respected Sir, contents of the complaint are that :

A secret verification conducted by this Bureau into the source report has revealed that one Bodh Raj, S/o Chuni Lal, R/o Nater Kothian, Muthi Jammu, while posted as District Mineral Officer (DMO) Kathua, has indulged in corrupt practices & acquired benami assets worth crores of rupees, in the name of his family members/relatives, which are disproportionate to his known sources of income. The brief details of assets are as under-

- 1) A palatial residential building constructed over 2 kanals of land at Rajouri Lines, Lait-e-Bago Jammu, valuing crores of rupees.
- 2) Benami investment in M/s Magnum Stone Crusher at village Pandori, near Kotpunu in Tehsil Nagri, District Kathua, in the name of his mother-in-law Sita Devi, Wd/o Prem Nath, R/o Joutian, District Jammu in partnership with Dr Piyush Talwar S/o Prem Kumar Talwar R/o Civil Lines Gurdaspur, Punjab.
- 3) Benami investment in M/s Satguru Stone Crusher at Tehsil Madheen District Kathua in the name of his sister-in-law namely Swarno Devi, W/o Bhagwan Dass, R/o Ajai Malal Kaleeth, Tehsil Khour, District Jammu, in partnership with one Tara Chand S/o Dhani Ram R/o Sujanar Tehsil Jammu A/p Ward no. 71, opposite BSNL, Exchange Sidhra.

572
 Serial No. of the register
 Date of receipt of application 3/6/25
 Date of issue of deposit of stamps 24/6/25
 Date of deposit of stamps do --
 Date of preparation of copy do --
 Date of issue of copy do --
 Value of stamps Mil gante
 100
 Name of the person stamps 18/6
 Purpose for which stamps are required
 Name of the person T

Received by

Certified Copy of F.I.R. No. 09/2024 P.S. Jammu Central in the Court of S.P. Swaje Dist. Corruption Jammu.

تھانہ پولیس اینٹی کورپشن بیورو
Police Station Anti-Corruption Bureau, Central

(رپورٹ نمبر 154 سرگرمی)
First Information Report u/s 154 Cr.P.C./1755/24

مطابق 15 جولائی 2024ء، تھانہ پولیس اینٹی کورپشن بیورو، سرگرمی، آکٹو رولنگ جو صاحب گھسٹنگ وارنٹ کے تحت ارسال ہوا۔

FIR No. 09/2024 Anti-Corruption Bureau Central Commercial which has been forwarded to the Learned Jurisdictional Magistrate

4. Above, huge discrepancies were found in the record of mineral/mineral stock by the crusher owners and that recorded with DMG office Kathua suggesting misappropriation of the mineral. Discrepancies have also been found in quantity of mineral shown dispatched by crusher operators and that received by construction companies. On the day of Joint Surprise Check, unaccounted and unclaimed cash amounting to Rs. 1.00 lakh was recovered from the office of DMG Kathua which reinforce the allegation of Disruption of illegal gratification in the office of DMG Kathua.

5. These omissions/commissions on the part of the officers/officers of DMG office Kathua namely Badi Raj the then DMG Kathua, the owners of crushers mentioned above and others constitute offences punishable U/S 7, 13(3)(a) read with section 13(2) of P.C. Act 1988 and section 120-B IPC. Accordingly a case FIR No. 09-2024 is registered in P/S ACB Central/Jammu and the investigation is entrusted to Dy SP Jammu East of ACB P/S Central.

[Signature]
Sub-Inspector of Police
Anti-Corruption Bureau
Central Jammu

Confirmed to be a True Copy
Learned Judge Anti-Corruption
Jammu
[Signature]
Authorised by: P.S.A of
District Jammu

[Signature]
27/8/24

	تاریخ و وقت Date & Time of receipt
23-08-2024 16 AM	Complaint
	تاریخ و وقت کیس کی رجسٹریشن Date & time of Registration of FIR
Through P/S Central ACB J & Jammu	Complainant's Name & Address نام و پتہ شاہد
7, 13(3)(a) read with 13(2) of P.C. Act 1988 and 120-B IPC	Offence constituted with sections of law
May 2021 to July 2021 Kathua	Time & Place of Occurrence
	Distance & Direction from P/S
Badi Raj, Chandi Lal P/S Kathua, District Jammu East of Jammu	Name of the accused with Parentage & Address
	Details of cases property & its value

Respected Sir, contents of the complaint are that

A Joint Surprise Check was conducted in the office of District Mining Officer Kathua to look into the allegations that Badi Raj, DMG Kathua by abuse of his official position and in collusion with some private persons (names omitted) manipulated official records and allowed stone crusher owners for illegal mining of areas without any legal permission/clearance. It was also alleged that private persons were operating in his office, involved in collecting huge amounts within the office premises etc.

2. During the course of Joint Surprise Check, record of DMG office Kathua for the period May 2021 to July 2021 was obtained and scrutinized. It surfaced that Badi Raj, then DMG Kathua issued Form-A in bulk to one Dhyan Singh (deceased) in one go in violation to Rule 7(4) of the Jammu and Kashmir Mineral Concession Storage, Transportation of Mineral and Prevention of Illegal Mining Rules 2015.

3. It also surfaced that Form-A issued in favour of M/S Bharat Stone Crusher and M/S Baba Chaita Stone Crusher have been utilized by M/S Swara Stone Crusher, despite the later was sealed at relevant point of time. This indicates omission on the part of mining officials to enforce sealing orders and conspiracy with crusher owners to continue selling of minerals, despite it was sealed, on the basis of Form-A issued in favour of other crushers.

GOVERNMENT OF JAMMU KASHMIR
e-Court Fee



DATE & TIME :	04-JUN-2025 09:55:25
NAMES OF THE ACC/ REGISTERED USER :	SHAM LAL
LOCATION :	Jammu
NAME OF LITIGANT :	SELF
e-COURT RECEIPT NO :	JKCT0405F2555J292
e-COURT FEE AMOUNT :	₹ 10 (Rupees Ten Only)

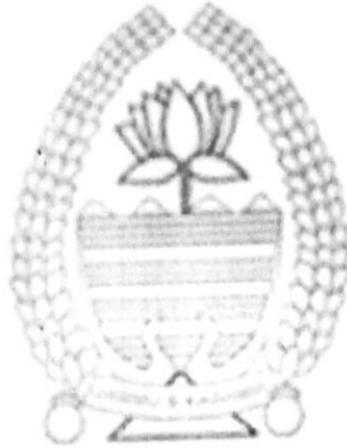


JKCT0405F2555J292

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573*



JAMMU AND KASHMIR
GOVERNMENT

THE JAMMU AND KASHMIR MINOR MINERAL
CONCESSION, STORAGE, TRANSPORTATION OF
MINERALS, AND PREVENTION OF ILLEGAL MINING
RULES 2016

The Jammu and Kashmir Minor Mineral Concession, Storage, Transportation of minerals and Prevention of Illegal Mining Rules, 2016.

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Government of Jammu and Kashmir
Industries and Commerce Department
Civil Secretariat, Jammu/Srinagar

Notification
Jammu the 6th Jan, 2016

SRO 3 In exercise of the powers conferred by section 15 and section 23C of the Mines and Minerals (Development & Regulation) Act, 1957, (Central Act 67 of 1957), the Government of Jammu & Kashmir hereby makes the following rules for regulating the grant of various forms of Mineral Concessions in respect of Minor Minerals, and Storage, Transportation of Minerals and Prevention of Illegal Mining.

CHAPTER-I

Preliminary

1. **Short title, extent and commencement:**
 - (1) These rules may be called the **Jammu and Kashmir Minor Mineral Concession, Storage, Transportation of minerals and Prevention of Illegal Mining Rules, 2016.**
 - (2) These rules shall be applicable throughout the State of Jammu & Kashmir and shall come into force immediately.
2. **Definitions:** (1) In these rules, unless the context otherwise requires:-
 - (i) "Act" means the Mines and Minerals (Development & Regulation) Act, 1957 (Central Act 67 of 1957);
 - (ii) "Appellate Authority" means the Government and includes Director or any Officer of the Department vested with such powers by the Government under these rules to perform such functions;
 - (iii) "Assessee" means a person holding Mining lease, Quarry license or a short term permit and includes any other person who is/has excavated, removed or used or is excavating, removing, processing or using minor mineral/minerals;
 - (iv) "Assessing Authority" means Officer Incharge as defined in these rules and declared as such by the Government;
 - (v) "Assessment Year" means the period beginning from the first day of April and ending on thirty first day of March of the following year;
 - (vi) "Authorized officer" means an officer Incharge as defined in these rules authorized by the Government to exercise such powers and to perform such functions as may be issued under these rules.

- (vii) "**Brick earth**" means earth used for making bricks and shall include all types of earth used for construction of dams, canals, roads; rail embankments and other identical purposes;
- (viii) "**Building stone**" means any rock/mineral prescribed as minor mineral under the Act and used as building or construction material;
- (ix) "**Boundary pillar**" means concrete pillar of size 100x50x50 centimeter painted yellow and marked lease/contract number and pillar number along with coordinates.
- (x) "**Competent Authority**" means the Government to carry out such functions as specified in these rules.
- (xi) "**Carrier**" means any mode of transport or facility, by which mineral or its products are transported either in raw or processed form from the place of raising or from one place to another and includes any mechanized device, person, animal or cart;
- (xii) "**Competitive bid**" means an amount offered by the participant in the open Auction under these rules;
- (xiii) "**Concessionary**" means a person holding a Mining Lease/quarry license/quarry permit and disposable permit holder granted under these rules.
- (xiv) "**Department**" means the Department of Geology and Mining, Government of Jammu and Kashmir;
- (xv) "**Director**" means Director of Geology and Mining, Government of Jammu and Kashmir;
- (xvi) "**District Environment Committee**" means the committee to be constituted by the Ministry of Forest and Environment, Government of India to oversee the environmental issues pertaining to the concerned district.
- (xvii) "**District Mineral Foundation**" means a nonprofit Trust to be formed in each District of the State by the Government which will work under the State mineral foundation.
- (xviii) "**Dead Rent**" means the minimum amount payable in a year by a person granted with a mining lease/quarry license under these rules irrespective of the fact as to whether or not lessee/licensee operates/could not operate the area fully or partly;
- (xix) "**Disposal Permit**" means a permit granted for removal of minor minerals from the Agriculture/Horticulture/State Kahchhari/Shamilat/Forest lands where minor minerals have been deposited due to weathering. However, the Kahchhari and Shamilat Lands shall be governed by Land Revenue Act.
- (xx) "**Environment Committee**" means the committee constituted by the Ministry of Forest & Environment, Government of India to oversee the environmental issues in this regard.

- (xxi) "Environment and Environmental Pollution" shall have the same meanings as assigned to them in the Environment (Protection) Act, 1986(Central Act No.29 of 1986).
- (xxii) "Environment Management Plan(EMP)" means a plan submitted by Lessee/licensee falling in a cluster which is prepared by Recognized Qualified Person approved by the Environment Committee of Government of Jammu & Kashmir for providing Environmental safeguards.
- (xxiii) "Excavation" means extraction/digging and or collection/removal of minor minerals from any land, river, nallah, canal or hillock and needs disposal permit;
- (xiv) "Family" means the applicant, is father and mother even if they have a separate house, wife and his sons and unmarried daughters;
- (xxv) "Form" means a form appended to these rules;
- (xxvi) "Fund" means the mines and mineral development, restoration and rehabilitation fund;
- (xxvii) "Final Mine Closure Plan" means a plan for the purpose of decommissioning, reclamation and rehabilitation in the mine, Cluster or part thereof after cessation of mining and mineral processing operations that has been prepared in the manner specified in the standard format as per the guidelines issued by the Indian Bureau of Mines or Government.
- (xxviii) "Financial Assurance" means the sureties furnished by the holder of a mining lease/quarry license to the Director so as to indemnify the Authorities against the reclamation and rehabilitation cost.
- (xxix) "Government" means the Government of Jammu and Kashmir;
- (xxx) "Illegal Mining" means and refers to the manner of undertaking mining inconsistent with mining plan/scheme of mining, clearances, permissions including transportation and storage of minerals as required under Act and Rules made thereunder.
- (xxxi) "Lessee" means a person holding a valid lease for raising the minerals from the area granted on lease and would include the plural thereof;
- (xxxii) "Letter of Intent (LOI)" means a letter of intent issued to the successful bidder on acceptance of the bid/application for grant of a mining lease, quarry license through open auction/e-auction only.
- (xxxiii) "Licensing authority" means the Director or officer Incharge as defined in these rules authorized by the Government in this behalf;
- (xxxiv) "Licensee" means holder of a mineral license granted under these rules for the purpose of storing, stocking trading and dispatch of mineral/minor mineral and their products;

- (xxxv) "**Minor Mineral Block**" means an area not less than 05 hectares and more than 50 hectares in a continuous stretch of land/water body, having defined limits with the evidence of one or more minor minerals that can be feasibly exploited.
- (xxxvi) "**Minor Mineral Plot**" means an area not less than 01 hectares and more than 05 hectares in a continuous stretch of land/water body, having defined limits with the evidence of one or more minor minerals that can be feasibly exploited.
- (xxxvii) "**Mineral Concession**" means a mining lease or a quarry license or a short term permit in respect of minor mineral permitting the mining of minor mineral in accordance with these rules;
- (xxxviii) "**Mining dues**" means and includes any of the dues on account of royalty, dead rent amount payable towards the Mines and Mineral Development, Restoration and Rehabilitation Fund, interest on delayed payments or any fee or amount payable under these rules.
- (xxxix) "**Mining lease**" means a lease granted under these rules to undertake excavation and to carry away any minor mineral specified therein;
- (xL) "**Mining operations**" means any operation undertaken for the purpose of winning any minor mineral;
- (xLi) "**Mining plan**" means a plan prepared by a Recognized Qualified Person (RQP) on behalf of mineral concession holder of minor mineral and includes progressive and final mine closure plans and approved by the Government without which mining activity cannot be undertaken.
- (xLii) "**Mineral Products**" means minerals/minor minerals in any raw or processed form.
- (xLiii) "**Mineral Transit Pass (Challan)**" means a document issued by the Director, Geology & Mining to the Officer-in-charge of the concerned District to the Lessee/licensee/permit holder/contractor for lawful dispatch and transportation of mineral(s) raised for which Director, Geology & Mining shall maintain logbook / challan issuance book which shall be audited annually;
- (xLiv) "**Mineral transport permit**" means a permit issued by the Director or officer Incharge authorized by him to the carrier/machine owner to use such carrier for lawful mining & transportation of mineral(s) raised in accordance with the provisions of the Act;
- (xLv) "**Minor Mineral**" means minor mineral as defined in Section 3(e) of the Act.
- (xLvi) "**Officer-in-charge**" means an officer of the Department from disciplines of Mining/Geology having qualification not less

- than Degree/Diploma in Mining or M.Sc Geology Incharge of a particular district declared by the Government.
- (xLvii) **"On spot collection of royalty and Cost of Mineral"** means collection of royalty as per Schedule-I & cost thereof by an officer of the Department authorized by the Government or by the Director within the territorial limits assigned to him on the minerals extracted and dispatched without having any mineral concession;
- (xLviii) **Open Auction/e-auction:-** Open Auction means bidding by the competitors online or through physical presence before the auction committee for grant of mineral concessions.
- (xLix) **"Presiding officer"** means the Director or any other officer authorized by the Government to preside over the auction process which shall be videographed without fail and shall be kept in safe custody for three years; alternatively this process can be performed through e-auction.
- (L) **"Processing"** means all physical processes such as pulverizing and /or grinding and /or powering or washing of minerals in such a way that no chemical change takes place by that process and includes cutting and polishing process of slate, granite blocks or marble blocks or blocks of any other types of rocks;
- (Li) **"Producer"** means any person carrying on the business of extracting/producing/collecting minerals or mineral aggregates in raw or processed form including the licensee of a registered metal mineral unit, as the case may be, in accordance with the provisions of the Act or rules made there under.
- (Lii) **"Progressive Mine Closure Plan"** means a Progressive Plan for the purpose of providing protective, reclamation and rehabilitation measures in a mine or part thereof that has been prepared in a manner specified in the standard format and guidelines issued by the Indian Bureau of Mines or Department.
- (Liii) **"Prescribed"** means as may be prescribed from time to time under these rules by the Government.
- (Liv) **"Quarry"** means any area declared as such by the Director or officer Incharge as authorized by the Government in this behalf;
- (Lv) **"Quarry license"** means a license granted under these rules to excavate minor mineral from any specified mineral deposit/plot;
- (Lvi) **"Royalty"** means the charge payable to the Department in respect of the minor minerals excavated, removed or utilized under these rules from any land including river, nallah, canal or hillock as prescribed in schedule-1;
- (Lvii) **"Recognized Qualified Person (RQP)"** means a person registered by the Director under these rules as RQP having

- minimum qualification as detailed in chapter-II, Rule 11 of these rules;
- (Lviii) "Rules" mean any rule framed under the Mines & Minerals (Development & Regulation) Act, 1957
- (Lix) "Schedule" means the schedule appended to these rules;
- (Lx) "Short Term Permit" means a permit granted under these rules for excavation, removal and sale of a specified quantity of mineral within a specified period and from a specified area less than 01 hectare.
- (Lxi) "Scheme of mining" means a scheme prepared by a recognized qualified person (RQP) on behalf of concessionary for systematic and scientific mining of minor mineral(s) which would need the Government approval before making it operational;
- (Lxii) "Scientific mining" means and refers to mining operations consistent with the approved mining plan/scheme of mining, clearance/ permissions granted by the Director/Officer Incharge;
- (Lxiii) "stock-yard' or 'sale-depot" means any place where a mineral or its products are stored and stocked in any raw or processed form for commercial purposes;
- (Lxiv) "unscientific mining" means and refers to the manner of undertaking mining operations not consistent with the mining plan/scheme of mining approved, clearances/permissions granted by the Government Director/Officer Incharge as the case may be;
- (Lxv) "Un-authorized mining" means any mining operation undertaken without any valid mineral concession granted under the Act and Rules made thereunder.
- (Lxvi) The expressions "mine" and "owner" have the meanings assigned to them in the Mines Act, 1952.
- (Lxvii) **State Mineral Foundation-** There shall be a State Mineral Foundation which will have District Mineral Foundation in every district as per the guidelines issued by the Ministry of Mining, Government of India. Separate notification about collection of resources and functioning of the foundation shall be issued by the Government.

Words and expressions used but not defined in these rules shall have the meanings respectively assigned to them in the Act. However, wherever word mineral is used in these rules shall include minor minerals also, if otherwise not specified.

3. **GENERAL RESTRICTIONS:**

3.1 No person shall undertake any mining operation/activity in respect of any minor mineral(s) in any part of the state except under and in accordance with the terms and conditions of minor mineral concession rules in any form, which shall be processed on the basis of NoC issued by, as the case may be, by the following with in a stipulated period:-

- (i) Deputy Commissioner concerned
- (ii) Conservator, of Forests concerned
- (iii) Executive Engineer (I&FC) Department Concerned
- (iv) Dy. Director, Fisheries concerned

Provided that no minor mineral concession shall be granted on any land which is:-

Agriculture/horticulture land, Kachari land, Shamalat land, Forest land, protected areas and eco-sensitive zones wholly or partly.

3.2 The Government shall decide the mode and nature of grant of minor mineral concession under these rules in different areas i.e. lease, license, Short Term Permit from time to time.

3.3 Every quarry lease holder needs to seek consent to establish/operate from J&K State Pollution Control Board.

4. **Other restrictions:**

4.1 No minor mineral concession shall be granted in respect of any land within a distance of

- (i) 150 meters from the outer periphery of the defined limits of a national highway, Railway line, state highway, major district roads (MDR) and other district roads (ODRs) where excavation does not require use of explosives unless otherwise specifically notified by the Government in this regard with due justification;
- (ii) 500 meters from the outer periphery of the defined limits of a national highway, Railway line, state highway, major district roads (MDR) and other district road (ODRs) where excavation require use of explosives unless otherwise specifically notified by the Government in this regard with due justification;
- (iii) 100 meters from any other public roads; and
- (iv) 50 meters upstream as well as downstream of water works, head works or hydraulic works and 25 meter from any embankment' or 'flood embankment' as defined under the J&K Water Resources (Regulation and Management) Act, 2010.

4.2 No minor mineral concession shall be granted in respect of any such minor mineral or in respect of any specific or general area which the Government may notify.

4.3 No Mining activity/operation shall be carried out in any river bed below the depth of 3 meters or the water level, whichever is lesser. The water level of the river bed shall be determined by the Chief

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Engineer, Irrigation & Flood Control or by an officer authorized by the Government in this purpose.

The point raised by Irrigation and Flood Control Department has already been well taken in Rule 3 and Rule 4 where consent of the Executive Engineer and Irrigation & Flood Control has been made Mandatory. As far as exemption of royalty has been provided in rule 9 with regard to State Irrigation and Flood Control Department. As regard to Rule 34, the department of geology & Mining

- 4.4 No Minor Mineral Concession shall be granted for a period more than 5 years in case of Bajri and Sand, and the area shall be again put to auction after 5 years or after the expiry of lease/ license/permit, whichever is earlier.

CHAPTER-II
Scientific and systematic mining

5. The grant of Minor Mineral Concessions shall be initiated by Director or Officer in-charge authorized by the Government.

Provided that, where mining of minor minerals below ground water table is proposed, the Department shall conduct Hydro-Geological Regime studies of the area before grant of such concession.

6. **Mining Plan as a pre requisite to the grant of minor mineral concession :**

6.1 No person shall be granted any minor mineral concession in any area under these rules unless a mining plan approved under these rules is submitted and approved by the Government;

6.2 No person shall commence mining operations for minor minerals in any area except and in accordance with a Mining Plan approved under these rules

6.3 Every minor mineral concession holder shall prepare a mining plan along with the mine closure plan (progressive and final) and shall not commence mining operations in any area except in accordance with such mining plan duly approved under these rules. The Mining plan shall contain the conceptual plan of the mining area taking into consideration the following aspects:-

- (i) Level of production
- (ii) Level of mechanization
- (iii) Type of machinery used
- (iv) Quantity of diesel/energy fuel consumption;
- (v) Number of trees uprooted due to proposed mining operations.

And shall incorporate the following as a minimum:-

- (i) the plan of the area under concession delineated on a map with boundaries duly marked along with the positions of boundary pillar with GPS readings;
- (ii) the plan of the area under concession showing the nature and extent of the mineral body/spot or spots where the mining operations are proposed to be undertaken;
- (iii) the plan of the 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 i.e. the environment management plan.
- (iv) details of the Geology and lithology of the area including the estimated mineral reserves of the area;
- (v) extent of manual mining or mining with the use of machinery and mechanical devices;

- (vi) tentative scheme of mining, annual programme and plan for excavation/production from year-to-year for a period of five years as part of mining plan;
- (vii) proposed method of mining/development of mines, use of explosives and blasting operations if any, stocking and disposal of minerals, mine-drainage pattern, handling of the overburden, location of weigh bridges, and mineral processing if any while undertaking semi-mechanized open cast mining.
- (viii) Progressive and final mine closure plan;
- (ix) details of scheme of restoration/rehabilitation of the area through afforestation, land reclamation, use of pollution control devices and such other measures as may be directed by the competent authority at time of approval to be executed by the lessee/Concessionary on monthly/Quarterly/yearly basis.

6.4 Where the mining operations have already been undertaken under an existing mineral Concession before the commencement of these rules, the holder of such mineral concession shall also submit a mining plan along with mine closure plan within a period of ninety days from the commencement of these rules for approval by the authorized officer.

6.5 Every mining plan or scheme of mining submitted for approval under these rules shall be accompanied with a non-refundable fee of Rs.10,000/- for each hectare or part thereof in respect of the mining area covered under the mining plan.

6.6 Every mining plan shall contain all plans, sections serially numbered or suitably indexed. The tracings or copies of such plans and sections duly certified for its correctness by the owner, agent, Mining Engineer or Manager or Geologist appointed by the concessionary, shall be kept at the site office of the minor mineral mine /concession area.

6.7 In addition to the requirements stipulated under sub-rule-(3) above, every mining plan shall delineate the approach in respects of environmental safeguards and restoration and rehabilitation measures of the area with regard to the following:-

- (i) Precautions for the protection of environment and control of pollution while undertaking mining operations in the area granted on minor mineral concession;
- (ii) control of air-pollution due to dust exhaust emissions or fumes during mining or processing operations for minor mineral and related activities' and containing the same within permissible limits specified under any environmental law for the time being in force;
- (iii) Precautions to prevent or reduce the discharge of toxic and objectionable liquid effluents from minor mineral concession area, workshop or processing plant within the permissible limits. No such toxic effluent shall be discharged in any water body or in the sub soil through a bore hole.

- (iv) abatement of and control over the noise arising out of mining and processing operations for minor minerals so as to keep the same within the permissible limits;
- (v) Prevention and containment of any damage to the flora and fauna of the area held under concession and the nearby area, scheme of undertaking plantation to compensate for any unavoidable damage and maintenance of the same during the subsistence of the concession period.
- (vi) Removal and stacking of any top soil or over burden or waste rock and non-saleable minor mineral excavated/ generated during the mining operations and utilization of the same for restoration and rehabilitation of the area.
- (vii) the mining plan shall be approved in consultation with the Forest Department and the Irrigation and Flood Control Department.
- (viii) plan for phased restoration, reclamation and rehabilitation of land affected by mining operations.
- (ix) The mining plan once approved shall be valid for the mineral concession period unless revised and modified and got approved during the concession period.

7. **Review of Mining Plan:**

The owner, agent, Mining Engineer or Manager or Geologist of every mine shall review the mining Plan after every five years and shall submit Scheme of Mining for the next five years or the concession period, as the case may be, to the officer Incharge for its approval by the Government.

8. **Modification of Mining Plan:**

8.1 Where any modification of the approved mining plan is required during the subsistence of the minor mineral concession, the concession holder shall get any such modification approved from the officer authorized in this behalf:-

Provided that in respect of river bed mining or mining near a water works, hydraulic works embankment etc, the No Objection Certificate of the concerned XEN, Irrigation and/or Flood Control Department be obtained before any modification is made in the original mining plan by the officer authorized in this behalf.

8.2 The authorized officer may wherever needed require the minor mineral concession holder to make such modifications in the mining plan referred to above or impose such conditions, as he may consider necessary, by an order in writing if such modifications or imposition of condition are considered necessary

- (a) in light of the experience of operations of mines;
- (b) in view of the change in technological development;
- (c) in light of any change in legal provisions or orders of any court.

8.3 A minor mineral concession holder desirous of seeking modifications in the approved mining plan as are considered expedient in the interest of safe

and scientific mining, conservation of minerals, or for the protection of environment, shall apply to the officer Incharge in this behalf setting forth the intended modifications and also explaining the reasons for the same.

9. **Financial Assurance:**

The minor mineral concession holder shall furnish financial assurance amounting to Rs 25000/-per hectare or part of the area granted under the mineral concession and put to use for mining and allied activities subject to minimum of Rs. 01 lac in the form and manner as may be prescribed

10. **Preparation of Mining Plan:**

(i) A mining plan shall be prepared by a Recognized Qualified Person (RQP) recognized under these rules or Rule 22 B of the Mineral Concession Rules, 1960(central rules).

(ii) The Director shall specify all such persons who are so recognized by him under sub-rule (1) above and keep a list of such persons updated.

11. **Registration of Recognized Qualified Person (RQP):**

11.1 No person shall be registered as a Recognized Qualified Person by the Director, unless he possesses:-

(i) a degree in Mining Engineering or a post graduate degree in Geology granted by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act including any institution recognized or incorporated by the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956) or any qualification equivalent thereto granted by any University or Institution outside India and possessing a professional experience of five years of working in a supervisory capacity in the field of mining or mineral administration after obtaining degree or

(ii) a three year full time diploma certificate in Mining Engineering awarded by a State Technical Education Board or a University or authority recognized by the Govt. of India and possessing professional experience of 10 years of working in a supervisory capacity in the field of Mining or mineral administration after obtaining the diploma.

11.2 Any person possessing the qualification and experience as prescribed under sub rule (1) above may apply to the Director, for registration as a Recognized Qualifying Person along with a fee of Rs 10,000/- (Rs ten thousand only). The Director may, after making such enquiry as deemed appropriate, grant or refuse to grant recognition and where recognition is refused, the Director shall record the reasons therefor in writing and communicate the same to the applicant.

11.3 The applicant recognized under sub rule(2) above shall be so registered for a period of 10 years and his registration may be further renewed on application and deposit of the fee as applicable at such time for a further period not exceeding 10 years at one time.

12. **Approval of Mining Plan/Scheme of Mining:**

12.1 The Government or any Officer authorized by the Government shall approve mining plan/scheme of mining of minor mineral in the state, subject to such officer having qualification & experience as per Sub Rule (1) Rule, 11 of these rules in consultation with the Forest and Irrigation & Flood Control Departments of J&K.

12.2 The Government or any Officer authorized by the Government in this behalf shall approve the mining plan or such modified mining plan or scheme of mining with or without any modification within a period of forty-five days from the date of receipt or submission of such application for approval of mining plan or modified mining plan or scheme of mining, as the case may be.

CHAPTER-III
ENVIRONMENTAL SAFE GUARDS

13. **Protection of Environment:**
Every holder of minor mineral concession shall take all possible precautions for the protection of environment and control of pollution while conducting mining operations in the minor mineral concession area;
Provided that the concessionaries shall submit the Environment Clearance from the District environment committee in respect of his minor mineral concession area as per the Notifications issued by Ministry of Environment & Forests(MoEF) GOI from time to time.
14. **Cluster of Small Quarries:**
Individual quarries falling in areas ancestrally occupied and certified by the revenue authority in this regard, area less than 05 hectares and sum total of not more than 20 quarries or the sum total of such areas shall not exceed 50 hectares whichever, is less may be clubbed and declared as cluster of quarries by the Director. Membership of all holders in the cluster declared as such shall be compulsory.
Provided that if the number of quarries or sum total of the area exceeds 20 quarries and/or 50 hectares, the powers shall be exercisable by the Competent Authority.
15. **Environment Management Plan for Cluster of Quarries:**
15.1 For a cluster, Environmental Management Plan shall be collectively prepared by the minor mineral concession holders of the cluster through a qualified person and submitted to the District Environment Committee for final approval by the Government or the authorized Officer by the Government in this behalf separately.
15.2 **Environment Clearance** is to be sought from the Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India in case of Mining area/ Cluster is 50 hectares or more and from the State Level Environment Impact Access Authority (SIEAAs) for such areas / clusters less than 50 hectares, as per impact assessment notification, 2006 with amendment of 2009 and memorandum issued by MOEFCC, GoI of May 18, 2012 for areas less than 5 hectares.
16. **Implementation of Common issues of Environment Management Plan (EMP) in a Cluster:**
Each and all minor mineral concession holders in a cluster shall be individually and jointly responsible for implementation of the environmental management plan.

17. Removal and utilization of top soil:

- (i) Where top soil exists and is to be excavated for mining operations for minor mineral, it should be removed separately.
- (ii) The top soil so removed shall be utilized for restoration and rehabilitation of the land which is no longer required for mining operations or for stabilizing or landscaping the external dump.
- (iii) 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.

18. Storage of overburden, waste rock etc:

- (i) The overburden, waste rock and non-saleable minor mineral generated during mining operations for minor mineral shall be stored separately in properly formed dumps on grounds earmarked.
- (ii) 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.
- (iii) Wherever possible, such waste rock or overburden or other rejects, shall be backfilled into the worked out minor mineral area, where minor mineral has been recovered upto 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.

19. Reclamation and Rehabilitation of lands:

Every holder of mineral concession shall undertake the phased restoration, reclamation and rehabilitation of land affected by mining operation and shall complete this work before the conclusion of such operations and abandonment of mine.

20. Restoration, Reclamation and rehabilitation in a cluster:

Where large numbers 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 a 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.

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

22. **Discharge of effluents:** Every holder of a mineral concession shall take all possible precautions to prevent or reduce to a minimum the discharge of toxic and objectionable liquid effluents from minor mineral area, workshop or processing plant into surface or ground water bodies and usable lands. These effluents shall conform to the standards laid down in this regard.
23. **Precaution against noise:** Noise arising out of mining and processing operations for minor mineral shall be abated or controlled by the holder of mineral concession at the source so as to keep it within the permissible limit as per the Noise Pollution (Regulation and Control) Rules, 2000, with amendments.
24. **Permissible limits and standards:** The standards and permissible limits of all pollutants, toxins and noise referred to in Rule-18, 19 and 20 shall be those standards notified under the Environment (Protection Act) 1986. The standards for emissions or discharge of environment pollutants shall be as per Rule 3(1) of the rules notified under the said Act.
25. **Restoration of flora:**
Every holder of mineral concession shall carry out mining operations in such a manner so as to cause least damage to the flora of the area held under mineral concession
- (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 mining operation.
 - (ii) Look after them during the subsistence of the mineral concession after which these trees shall be handed over to the state Forest department or any other authority as may be nominated by Government.
 - (iii) Restore, to the extent possible, other flora destroyed by mining operation.

CHAPTER-IV
GRANT OF MINING LEASES

16. **Restriction on grant and renewal of Mining Lease:**
 26.1 No Mining lease shall be granted by the Competent Authority/ Director unless the Competent Authority/Director is satisfied that there is evidence to show that the area for which the lease is applied for bears occurrences of minor mineral or otherwise.
 26.2 No lease shall be granted or renewed by the Competent Authority/Director unless there is a mining plan duly approved under these rules.
 Provided that the Environmental Clearance shall be mandatory irrespective of the size of the area for the purpose.
27. **Procedure for grant of Mining lease:**
 Any minor mineral deposits, where the Director decides such areas to be operated under a Mining Lease, may be granted on mining lease by the Government for a period not less than 05 years but not exceeding 15 years depending upon the nature of the mineral deposit.
 Provided that where mineral vests with the Government (State land) the leases shall be granted after following an open auction process as provided under Chapter-VI of these rules excluding the quarry areas ancestrally occupied and certified by the revenue authorities in this regard.
 Provided further that Director shall constitute Committee/ Committees for identification of Minor Mineral Blocks having an area not less than 05 hectares and more than 50 hectares which shall be put to open auction after approval from the Competent Authority.
28. **Application for grant or renewal of mining lease of minor minerals:**
 28.1 Every application for grant of mining lease shall be made to the Officer in-charge in **Form "ML1"**
 28.2 Every application for renewal of mining lease shall be made to the Officer in-charge at least 12 months before the date lease is due to expire in **Form "ML2"**
 28.3 Every application made under sub rules (1) and (2) above shall also be accompanied by:-
 (a) a non refundable fees of Rs. 50,000/- ;
 (b) a plan of the area on suitable scale connecting one or more of the corner pillars with a fixed reference point in vicinity with accurate bearings and distances and descriptions of the area applied for incorporated with title verification of the land.
 (c) a copy of No Due Certificate from Officer in-charge authorized by the Government in this behalf.

Provided that an affidavit stating that no dues are outstanding shall suffice, subject to the condition that the certificate required as above is furnished within 30 days of the date of application failing which the application shall become invalid.

Provided further that where any injunction has been issued by the Court or any other authority staying recovery of any dues, the non-payment thereof shall not be treated as a disqualification for the purpose of granting or renewing the lease.

Provided further also that no dues certificate shall not be required where a person has furnished an affidavit certified by a Civil Court to the satisfaction of the Department stating that he or any member of his family does not or did not hold a mining lease or any other type of mineral concession; and no dues of the Department are outstanding against him or any member of his family;

- (d) an affidavit giving particulars of mineral-wise areas already held under mining lease/Prospecting License/quarry licence by the applicant or with any person having joint interest or already granted but not yet executed/registered or already applied but not yet granted;
- (e) Income Tax Clearance Certificate / Return of every member.
- (f) Copy of ADHAR Card and PAN Card.

29. **Acknowledgement of application:** Every application **under rule 18** shall be acknowledged in **Form "ML3"** on the date of its receipt.
30. **Disposal of applications for grant and renewal of the mining lease:**
 - 30.1 An application for grant of mining lease shall be disposed of by the Competent authority/Director within a period of 12 months from the date of its receipt. Beyond 12 months, application will lapse automatically.
 - 30.2 An application for renewal of mining lease made within the stipulated period shall be disposed of before the expiry of lease and if the application is not disposed of within that period, the lease shall be deemed to have been expired.
31. **Refusal of application of mining lease:** The competent authority/Director may refuse to grant or renew any mining lease subject to reasons to be recorded and communicated to the applicant in writing.
32. **Register of Mining Lease applications and mining leases:**
 - (i) A register of mining lease applications shall be maintained in the office of the Director in **Form "ML4"**
 - (ii) A register of mining leases shall be maintained in the office of the Director/ competent authority in **Form "ML5"**

Area of Mining Lease of minor minerals:

Area for grant of mining lease shall not be less than 5 hectares and no mining lease shall be granted over an area exceeding 50 hectares.

Provided that minimum area for grant of mining lease shall not be less than one hectare in case of stray, isolated and deposits shallow in nature.

34. **Period for which Mining Lease for minor minerals may be granted or renewed:**

(i) The maximum period for which a mining lease may be granted shall not exceed 15 years depending upon the nature of deposit.

Provided that the minimum period for which any such mining lease may be granted shall not be less than five years.

Provided further that period of mining lease in respect of river born deposits shall not exceed 05 years.

(ii) A mining lease may be renewed for a period not exceeding 10 years.

(iii) No renewal will be done after (i) and (ii) above, i.e. beyond 25 years.

35. **Renewal of Mining Lease of minor mineral:**

(i) If an application for the renewal of a mining lease is found complete in all respects, the competent authority/Director may renew the mining lease for a period not exceeding ten years.

(ii) The competent authority may, while granting renewal of a mining lease may impose conditions relating to mechanized development of mines and establishment of mineral based industry after obtaining prior approval of the Government.

(iii) Where the application for renewal has been received after the expiry of lease, renewal application cannot be considered for renewal.

36. **Security deposits:** The lessee shall be required to deposit a sum of Rs.1,00,000/- per hectare or part as security in the shape of a fixed deposit in favour of Director or in any other form/manner as may be prescribed by the Government for the due observance of the terms and conditions of lease.

37. **Transfer of Mining Lease:**

37.1 Except with the prior approval in writing of the Competent Authority, the lessee shall not-

(a) assign, sublet, mortgage or in any other manner transfer the mining lease or any right, title or interest therein; or

(b) enter into or make any arrangement, contract or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under, which the lessee's operations or undertakings will or may be substantially controlled by any person or body of persons other than lessee.

37.2 Any application for transfer of Mining Lease shall be submitted to the Director along with a processing fee of Rs. Fifty thousands:

Provided that the lease has remained in force for at least two years from the date of its grant:

Provided further that such transfer shall not be made, if there are any dues outstanding against the transferor or transferee:

37.3 An application for transfer of mining lease shall be disposed of by the Government.

37.4 Transfer of mining lease shall not be considered as a matter of right and the competent authority may refuse such transfer for the reasons to be recorded and communicated in writing to the lessee.

37.5 Where, on an application for transfer of mining lease under these rules, the Government has given consent for such lease, transfer deed in **Form "ML6"** or a form shall be executed within three months from the date of consent after which transfer application shall not be entertained and accepted.

38. **Conditions of lease:**

38.1 Every mining lease shall be subject to the following conditions:-

(a) The holder of a mining lease granted before the commencement of these rules, shall notwithstanding anything contained in the instrument of lease or any law or rules in force at such commencement, pay royalty in respect of any mineral removed by lessee from the leased area or consumed after such commencement, at the rates for the time being specified in **Schedule-I** in respect of that minor mineral and in the manner as ordered by the Director;

(b) The holder of a mining lease granted under these rules shall pay royalty in respect of any minor mineral removed by him from and/ or consumed, at the rate for the time being specified in the **Schedule -I** in respect of that mineral in the manner as ordered by the competent authority/ the Director.

(c) The lessee shall pay surface rent to the Revenue Department where such lands are Government land for surface area used by him for the purpose of mining.

(d) The lessee shall pay for yearly dead rent, as per **Schedule-II**, in quarterly installments in advance.

Provided that the lessee shall be liable to pay either dead rent or royalty in respect of each minor mineral whichever is higher but not both.

(e) The lessee shall pay all dues in the Office of Officer Incharge in such manner and at such place as may be mentioned in the lease agreement or as notified by the Government from time to time.

(f) The lessee shall not cut or injure any tree in area of his lease without the previous sanction in writing of an officer authorized in this behalf under law.

(g) The lessee shall, at his own expenses erect and at all times maintain and repair boundary pillars and marks according to the plan and demarcation report annexed to the lease.

(h) The lessee shall not erect, set-up or place any building or industrial unit in the leased out area.

Provided that shelter for labourers to rest or field office may be erected, which if not removed before expiry of lease shall become the property of the Government.

(i) The lessee shall not carry out any operation in or upon any public pleasure ground, cremation or burial ground or place held sacred by any class of persons or any house or village site public road or other place which the Government may determine as public place or in such a manner as to injure or prejudicially affect any building, works, property or rights of other persons.

(j) The lessee shall commence mining operations within three months from the date of execution of the lease and thereafter carry on such operations effectively in a manner which will ensure safety of labourers, conservation of mineral, removal of over burden, and its proper dumping, storage, drainage of water and removal of all valuable minerals from the mines in accordance with the rules.

38.2 The lessee shall as per Environment Management plan-

(a) take immediate measures for plantation in the same area or any other area selected by the Director or an officer authorized by him, not less than twice the number of trees destroyed by reasons of any mining operations and shall look after them during the subsistence of the lease, after which these trees shall be handed over to Director or an Officer authorized by him.

(b) restore to the extent possible the mined out areas and other flora destroyed by the mining operations.

(c) Properly stack the top soil recovered during surface operations and use the same for plantation or as backfill, as directed by the Director.

38.3 The lessee shall keep accurate and faithful accounts of all minor minerals excavated from the mines, the quantity lying in stock at the mines and the quantity dispatched/utilized therefrom as also the number of persons employed in Form "ML7" which shall contain particulars regarding the quantity of minor mineral sold/utilized, its value and name of persons or firms to whom sold. The accounts shall be produced before the assessing authority on such date as may be fixed in this behalf for the purpose of assessment. The lessee shall maintain up to date plans of the mines and shall also allow any officer of the Department as may be authorized by the Director in this behalf to examine such accounts and plans at any time and shall furnish him other information as he may require.

38.4 The lessee shall furnish monthly returns in the Form "ML8" by 15th of the following month to which the returns relate and Annual Returns in the Form ML9 by or before 30th April of each year.

38.5 The lessee or any other person shall not remove or dispatch the minor mineral from the lease hold without proper challans in Form "A"

38.6 The lessee shall abide by all existing Laws and Rules enforced by the Government of India as applicable to the State or the State Government and all such other Laws or Rules as may be enforced from time to time in respect

of working at the mines and other matters relating to safety, health and convenience of the employees or of the public.

38.7 The lessee shall allow existing and future lease holders of any land which is comprised in or is reached by the land held by the lessee, reasonable facilities for access thereto,

38.8 The lessee shall allow any Officer of the Department to enter upon the premises comprised in the lease for the purpose of inspecting the same and abide by instructions issued by him from time to time regarding the conservation and development of minerals and the related matters.

38.9 The lessee shall make to reasonable satisfaction and pay such compensation as may be assessed by lawful authority in accordance with the law or rules or order in force on the subject for all damages, injuries or disturbances which may be caused by him and shall indemnify and keep indemnified fully and completely, the Department against such damages, injury or disturbances and expenses in connection therewith.

38.10 The lessee shall forthwith report to the Department any accident which may occur at or in the said premises.

38.11 The lessee shall report to the Department the discovery of any mineral not specified in the lease within thirty days of such discovery and shall not win and dispose of such mineral unless he is permitted to do so by grant of lease or otherwise.

38.12 If the lessee intends to work such newly discovered mineral or minerals, he shall, within three months of making such report as mentioned in Clause (11) intimate his intention to the Director, apply for mining lease in respect thereof in accordance with the rules regulating the grant of mining concessions for that mineral and he may find preference over other applicants for grant of mineral concession for that/these mineral(s) within his existing lease area. However, such mining lease shall not be a matter of right.

38.13 If the lessee intimates his intention not to work the newly discovered mineral(s) or fails to report about the same within stipulated period from the date of discovery of new mineral, then it shall be open to the Department to grant a lease for the working of the same to any other person. Any objection in this regard will be disposed of after due consideration by the Government.

38.14 The lessee may apply for surrender of whole or part of the lease on the ground that deposits of that mineral have since exhausted or depleted to such an extent that it is no longer economical to work the minor mineral. The Government may permit the lessee for such surrender which shall be accepted subject to the following conditions:-

- (a) the extent of surrendered area shall not be less than the minimum prescribed size of the plot fixed for the minor mineral for that area and shall be rectangular and contiguous in shape and length being not more than 4 time the width;
- (b) there shall be no dues outstanding against the lessee;
- (c) the lessee applies for such surrender at least 03 months before the intended date of surrender;

(d) the lessee gives an undertaking that he will not cause any hindrance in the working of mineral area so surrendered, by any other person who is subsequently granted a mining lease in respect of that minor mineral/area;

Provided that the security deposited by lessee shall be adjusted against outstanding dues if any.

38.15 The lease shall be liable to be cancelled by the Government/Director if the lessee ceases to work the mine for a continuous period of six months without obtaining sanction of the competent authority.

38.16 The Director shall, from time to time and at all times during the term of lease, have the right, to be exercised by notice in writing to the lessee of pre-emption of the said minor minerals and all products thereof lying in or upon the said lands hereby demised or elsewhere under the control of the lessee and the lessee shall deliver all minerals or products to the Government/Department at prevalent market rates in such quantities and in the manner and at the place specified in the notice exercising the said right.

38.17 In case of any breach on the part of the lessee of any covenant or condition contained in the lease, the Director may determine the lease and take possession of the said premises and forfeit the security deposit or in the alternative may impose payment of a penalty not exceeding twice the amount of annual dead rent of the lease. Such action shall not be taken unless the lessee has failed to remedy the breach after serving of 15 days notice.

38.18 The Director may also at any time after serving the aforesaid notice enter upon the said premises and distain all or any of the minor minerals or movable property therein and may carry away, distain or order the sale of the property so distained or so much of it as will suffice for the satisfaction of the rent or royalty due and all costs and expenses occasioned by the non-payment thereof.

38.19 As soon as the lease gets expired or is surrendered or is determined, the lessee shall deliver up the said premises and all mines dug therein in a proper and workable state (save in respect of any working as to which the Director might have sanctioned abandonment) to the Director.

38.20 The minor mineral, machinery or any structures left on expiry of lease or on determination of lease or on surrender of lease shall be removed by the lessee within 30 days of the date of expiry or surrender or receipt of the order of determination of lease and if the minor mineral, machinery or structures is not removed within the aforesaid period, the same shall belong to the Government and Director may dispose it off either by public auction, by beat of drum or by direct sale at the rate prevalent in the adjacent area or by any other means or in any other manner found fit;

Provided that the said condition shall also be applicable to the part of lease surrendered.

38.21 The Director may by six months prior notice in writing determine the lease, if it considers that the area under the lease is required for public interest;

Provided that such notice shall be dispensed within the event of war or any other situation making it impracticable to give such notice.

38.22 Director may by an order in writing prohibit further mining or quarrying in the leased area, if in his opinion such operation is likely to cause premature collapse of any part of the working or otherwise endanger the mine or quarry or the safety of persons employed therein, or there is danger as regard to outbreak of fire or flooding or such operation may cause damage to any property.

38.23 The lessee shall not work or carry on or allow to be worked or carried on at any point within a distance as specified in **Rule 4** from any railway line except with the previous written permission of the Railway Administration concerned, or from any reservoir, canal or other public works or buildings or inhabited site except with the previous permission of the Collector or any other officer authorized by or under any law for the time being in force or by the Government in this behalf and otherwise than in accordance with such instructions, restrictions and conditions either general or special as may be attached to such permissions. The said distance as specified in Rule, 4 shall be measured in the case of railway, reservoir or canal horizontally from the outer toe of the bank or the outer edge of the cutting as the case may be, and in case of a building horizontally from the plinth thereof.

Explanation: For the purpose of this sub-rule:-

- (a) The expression Railway, Administration shall have the same meaning as defined under sub-section (4) of section 3 in the Indian Railway Act; and
- (b) "Public Road" shall mean a road which has been constructed or artificially surfaced by the Government as distinct from a track resulting from repeated use;

38.24 If any area of the leased area is declared as a protected area under the Ancient Monuments Preservation Act, 1904, the lessee shall have to deliver the possession back to the Department without claiming any compensation for the area.

38.25 The lessee shall deliver to or permit sample or samples to be taken by the representative of the Department of all rocks found on Mines or raised there from and all intermediate and finished products sold or intended for sale by the lessee.

38.26 The lessee shall abstain from entering upon the surface of any occupied Government land or on any private land comprised within the leased area without obtaining in writing the prior consent of the occupant.

38.27 The Director may with the prior approval of the Government impose such special condition(s) as deemed necessary, in the interest of mineral development/protection.

Lapsing of leases:

39.1 Subject to the other conditions of these rules, where mining operations are not commenced within six months from execution of the lease deed or is discontinued for a continuous period of six months after commencement of such operations, the Director shall, by an order, declare the mining lease as lapsed and communicate the declaration to the lessee.

39.2 Where a lessee is unable to commence the mining operations within a period of six months from the date of execution of the lease, or discontinues mining operations for period exceeding six months for reasons beyond his control, he may submit an application to Director explaining reasons of the same at least one month before expiry of such period.

39.3 The Director may on receipt of application made under sub rule (2) and on being satisfied about the genuineness of reasons for the non-commencement of mining operation, or discontinuance thereof, pass an order before the date on which the lease would have otherwise lapsed, requesting the Government for extending or refusing to the extend the period of the lease.

39.4 Every application under sub rule (2) shall be entered in the register kept for this purpose and a receipt shall be given to the applicant.

40. Execution of Lease:

40.1 Where the lease has been granted or renewed under these rules the grantee shall pay demarcation fee, deposit the security alongwith one quarterly installment of annual dead rent and submit requisite stamps for execution of formal lease deed in Form "ML10" within 30 days from the date of issue of order of grant.

40.2 The lease deed shall be executed within three months from the date of issue of order of grant and the Director shall sign the agreement.

40.3 The lease deed shall be got registered by the lessee within a period of one month from the date of execution of the lease deed and registered lease deed shall be submitted immediately to Director.

40.4 Where the grantee fails to comply with the provisions of sub-rule (1), (2), & (3) above, the order granting the lease may be revoked and amount of security and dead rent deposited by him shall be forfeited.

Provided that if the grantee applies before expiry of 30 days specified in sub-rule (1) for extension of time for completing the formalities mentioned therein, the Director may allow further time not exceeding 30 days and that the authority competent to grant the lease is satisfied that there are sufficient reasons to believe that the grantee is not responsible for the delay in the execution/ registration/submission of lease deed, he may permit the execution/registration/submission and return of the lease deed within a reasonable time after expiry of aforesaid period subject to payment of penalty @ 10% of annual dead rent for every month of delay or part thereof.

40.5 After the registration of duly executed lease deed under sub rule (2) the Director or the Officer authorized by the Government shall make

arrangements at the expenses of the lessee for demarcation of the granted area.

Provided that where the Director or the competent Authority feels it necessary to demarcate the area before issuing an order of grant for mining lease, he may ask the applicant to deposit the demarcation charges within time specified by him and get the area demarcated. The demarcation charges shall be Rs. 50,000/- hectare.

Provided further that the Competent Authority shall not enhance the demarcation charges in respect of any mineral concession area for more than twice during the initial lease period.

Provided further also that if the applicant fails to comply, the order made for grant of lease shall be revoked.

41. Currency of lease:

The currency of lease shall be the date on which duly executed deed is registered unless otherwise stated. The lessee shall have no right to continue work or accumulate stock on or after the date of termination of lease or its earlier determination, unless otherwise permitted by the competent authority.

42. The Authority to grant Mining Lease shall be as per following delegation:

- 1)- Areas upto 25 hectares by the Competent Authority or any Officer authorized by the Government in this behalf.
- 2)- Areas exceeding 25 hectares by Competent Authority.

Chapter-V
Grant of Quarry License

43. Restriction on grant of Quarry License:
No quarry license shall be granted /renewed unless a duly approved Mining Plan/Scheme of Mining is submitted.

Provided that the Environmental Management Plan shall be mandatory irrespective of the size of the area/plots in case of extraction of river bed material like sand, bajri and boulders from the river/nallahs.

44. Procedure for grant of Quarry License:

Any minor mineral deposits, where the Director decides such areas to be operated under a Quarry License, may be granted by the Director for a period not less than 03 years but not exceeding 05 years. Such lease/quarry license shall not be renewed and the area shall be put to auction after a period of 5 years or after the expiry of the lease/license whichever is earlier.

Provided that where mineral vests with the Government (State land) the license shall be granted after following an open auction process as provided under Chapter-VI of these rules excluding the quarry areas ancestrally occupied and certified by the revenue authorities in this regard.

Provided further that Director shall constitute Committee/ Committees for identification of Minor Mineral plots having an area not less than 01 hectares and more than 05 hectares which shall be put to open auction after approval from the Competent Authority.

45. Period and area of quarry license:

(i) No quarry license shall be granted for a period not exceeding **05 years** having no renewal facility.

(ii) No quarry license shall be granted for an area exceeding 05 hectares.

46. Application for grant/renewal of quarry license:

(i) Every application for the grant/renewal of quarry license shall be submitted in Form 'QL1' to the Officer Incharge and shall be accompanied by a non refundable fee of Rs 50,000/-

(ii) Every such application made under sub rule (1) shall be accompanied by:-

- (a) site plan of the applied area along with coordinates,
- (b) revenue extracts of the applied area along with last Jamabandi position,
- (c) No Demand Certificate of Department,
- (d) the consent of owner or occupier of the applied area,
- (e) Copy of ADHAR Card and PAN Card.

47. **Disposal of applications for grant/renewal of quarry license:**
- (i) Every application for grant of quarry licensee shall be disposed off within a period of 06 months.
- (ii) The application for renewal of quarry licensee shall be disposed off within a period of 03 months provided that application is made three months prior to the date of expiry of the license for which renewal is required.
48. **Grant of Quarry License:**
- (i) The extraction of minor minerals from any land shall be regulated by grant of quarry license by Director or an Officer authorized by the Government.
- Provided that grant of quarry license for extraction of river bed material shall be regulated as per the related provisions of the J&K Water Resources (Regulation and Management) Act, 2010 & J&K Water Resources (Regulation and Management) Rules, 2011.
- (ii) The Director or an Officer authorized by the Government within his jurisdiction shall issue/renew the quarry license in the form 'QL2':
- Provided that in respect of quarrying of river bed material, the said license shall be granted by the Director or an Officer authorized by the Government only after seeking specific NOC from the concerned Executive Engineer of the Irrigation and/or Flood Control Department in terms of Jammu and Kashmir Water Resource (Regulation and Management) Act, 2010.
- Provided further that no license shall be issued in respect of Forest/Protected area & Eco-sensitive Zones unless, prior sanction is obtained from the Competent Authority as per J&K Forest Conservation Act, 1997 containing details of volume of minerals i.e quantity to be extracted/removed and validity of time period.
- Provided further also that the Director or an Officer authorized by the Government within his jurisdiction shall issue the quarry license for areas falling partly or wholly in Forest/Protected area and Eco-sensitive Zones in case prior sanction of the Competent Authority under J&K Forest Conservation Act, 1997 and/or J&K Wild Life Protection Act as the case may be has been obtained.
49. **Security deposits:** The licensee shall be required to deposit a sum of Rs. 50,000/- per hectare or part as security in the shape of a fixed deposit or in any other form/manner as may be prescribed by the Competent Authority for the due observance of the terms and conditions of license.
50. **Conditions of Quarry license:**
- 50.1 The licensee shall pay advance royalty on monthly basis on the quantity of the minor mineral intended to be dispatched from the quarry at the rate specified in the **schedule-I**, to the Department and after which the officer authorized in this behalf shall within his jurisdiction issue the authorization for lifting/removal of the said quantity in Form 'QL3';

53.

50.2 The licensee shall remove the quarry waste dumped during excavation or pay such amount per year or part thereof to the Department for removal of quarry waste dumped during the extraction at such rate and at such time as may be fixed by Department from time to time.

50.3 The licensee shall start work in the quarry within ten days of the grant of license and shall thereafter continue to work effectively in a proper skillful and workman like manner with regard to conservation of mineral and safety of labourers and surroundings.

50.4 The licensee shall maintain and at all times keep intact boundary pillars at the corners of the plot/area according to the approved site plan.

50.5 The licensee shall abide by the instructions of the Department regarding the working of the quarry, removal of waste, drainage and other matters concerned with the systematic development and working of the area.

50.6 The licensee shall make to the reasonable satisfaction and pay such compensation as may be determined by lawful authority in accordance with the law or rules or order in force on the subject for damages, injuries or disturbances which may be caused by him and shall indemnify and keep indemnified the Department against all such damages, injuries or disturbances and all costs and expenses incurred thereon or therewith.

50.7 The licensee shall without any delay report to the Department any accident which may occur at or in the said premises and also the discovery in or around the license area of any mineral not specified in the license.

50.8 The license may be cancelled by the Government/Director without giving any notice if the licensee fails to start work at the said quarry or does not work it for a continuous period of four months.

50.9 The minor mineral left on the expiry of license period or cancellation of license shall be removed by licensee within 15 days of the expiry of license or receipt of the order of cancellation of license.

50.10 The licensee shall confine his workings within the limits of the minor mineral plot allotted to him and shall not undertake mining outside his plot, in case the licensee is found working outside the boundary of his allotted plot/area, the license may be cancelled.

50.11 The licensee shall not obstruct approach to the adjoining licensee(s). In case of any dispute about the approach road, directions of Director or officer Incharge shall be final and binding.

50.12 The licensee shall have to make the transportation of mineral removed from the plot/area under a proper challan in Form "A"

51. **Cancellation of license:**

If the licensee commits breach of terms of license or any provision of the rules or fails to comply with the directions given, within the period specified, the Director or an Officer authorized by the Government may, after giving 15 days notice to remedy the breach or to comply the direction, impose penalty not exceeding Rs. 25,000/- or in the alternative may cancel the license with forfeiture of security deposits and license fee for the remaining period of the license.

Chapter -VI

Grant of Mining Lease/Quarry License by inviting /Auctions

52. Mining leases/Quarry Licenses may be granted through a process of open auction by the Competent Authority.

53. Determination of Reserve Price:

(i) The Director shall fix the reserve price in each case with the approval of the Government:

(ii) The reserve price may be fixed keeping in view the following:-

- (a) actual physical quantities of mineral produced and dispatched from the area concerned during last three years;
- (b) last three year's collection of royalty from such deposits in open market in the state and the other states;
- (c) expected increase in revenue in the proposed contract period due to increased consumption of mineral in coming times;
- (e) potential of mineral reserves, feasibility, haulage facilities and other relevant matters about the area;

54. Terms and Conditions for grant of Mineral Concession through Auction:

- (i) The Auction of Mineral Concession area shall be conducted in the District Headquarter concerned by the Chairman of the Auction Committee of the District in presence of its members as notified by the Government.
- (ii) The terms and conditions and description of the Mineral Concession area shall be read out to the intending bidders at the time of Auction.
- (iii) The participants in the Auction shall submit to the Committee :-

- (a) (i) Earnest money not less than Rs. 1.50 lacs or 15% of the minimum bid amount whichever is higher in the shape of CDR pledged to Officer Incharge of the District.
- (ii) an affidavit stating that no dues of the Department are outstanding against the Bidder or partners of the firm/Directors of the company or their family members as the case may be.
- (iii) power of Attorney/Resolution passed by the Board of Directors in case intending Bidder is Partnership Firm or Company or Society as the case may be;
- (iv) Income Tax Clearance Certificate/Income Tax Return as provided in Income Tax Act, 1961.

(b) No interest shall be payable by the department on the earnest money.

(c) Any participant not having the requisite earnest money, affidavit regarding no dues, power of attorney and copy of Mineral Trade License shall not be allowed to participate in the Auction.

(d) The Chairman shall conduct the Auction in the peaceful manner and may direct any bidder to leave the auction premises in the event of misbehavior during the course of Auction and shall reject his Bid or, if necessary, debar him for a period of three years from the date of misbehaving for grant of any Concession under these rules including forfeiture of earnest money deposited by such bidder.

(e) On completion of the bid process i.e fall of the hammer, the Chairman may provisionally accept or reject the highest bid offered/received during the auction proceedings and shall send his recommendations to the Director.

Provided that in case the Auction proceedings are not conducted under the Chairmanship of Deputy Commissioner, the recommendations as required under bi-rule (e) above shall be made by the Dy. Commissioner.

(f) No highest bid shall be regarded as accepted unless approved by the Director in case the highest bid is upto 150.00 lacs and by the Government in case the highest Bid is above Rs.150.00 lacs.

(g) The Bidder whose bid is provisionally accepted, Director shall issue Letter of Intent (LoI) to complete the formalities as required for the grant of Mining Lease or Quarry License under these rules as the case may be within a period of six months, including deposition of remaining bid amount.

(h) The bid amount offered by the successful bidder shall be considered as guarantee amount for grant of such Mineral Concession.

(i) No person against whom any dues of the Department are outstanding shall be considered for acceptance of a Bid under this rule.

Provided that where any injunction order has been issued by a court of law or other competent authority staying the recovery of such dues, the non-payment thereof shall not be treated as disqualification for the purpose of this rule.

The earnest money deposited by participants, save in the cases where the earnest money has been ordered to be forfeited by the Chairman grounds of any misconduct during the auction proceedings, shall be refunded immediately upon completion of the auction proceedings;

(iv) The complete process shall be video graphed and kept in safe custody for at least three years.

55. **Presiding Officer:**

Bids for grant of Mineral Concession shall be received in the office of Presiding officer, not below the rank of Joint Director, Dy. Director, Mining Engineer of the Department authorized in this behalf by the Director.

56. **Auction Committee:**

For grant of Mineral Concessions through Auction a Committee consisting of following shall be constituted by the Competent Authority in each District of the State:

1. Dy. Commissioner concerned or an Officer authorized by him not below the rank of Additional Deputy Commissioner (Chairman)
2. Superintending Engineer(R&B) or an officer authorized by him not below the rank of Executive Engineer (Member)
3. District Treasury Officer (Member)
4. Executive Engineer (I&FC) (Member)
5. Officer of the Department not below the rank of Deputy Director Mining Engineer. (Member)
6. Officer Incharge of the concerned District (Member Secretary)

Chapter - VIIGrant of Short Term/Disposal Permit:57. Restrictions on the grant of Short term /Disposal Permit:

57.1 Short Term Permit shall be granted for

(a) Disposal of minor minerals encountered in the process of construction of tunnels, canals, roads, bridges, buildings etc.

(b) Disposal of minor minerals excavated during the process of construction, maintenance and operation of the tunnels, canals, roads, drainage system by State Government Departments.

(c) Government works of emergent nature for public interest.

(d) an area not less than 01 hectares and not covered under any other mineral concession granted under these rules for the excavation of specified quantity of minor minerals for a specified period on advance payment of royalty and guarantee amount. However, disposal permit shall be given on an area not exceeding one hectare.

57.2 The authority to grant short term permit shall be exercised as per the following delegations;

(a) upto 5000 tonnes by Officer Incharge of the District concerned

(b) above 5,000 upto 50,000 by the Joint Director/Dy. Director/Mining Engineer of the Department.

(c) above 50,000 tonnes by the Director.

57.3 Short Term/Disposal Permit may be granted for a specified period not exceeding three months, for a specified quantity only without any provision for extension.

58. Application for short term permit:

58.1 Application for short term permit shall be made to Officer Incharge in the Form "STP1" and shall be accompanied by a fee of Rs.20,000/- (Rupees twenty thousand).

58.2 Every application for short term permit shall be accompanied by the description of the land giving location of the area from where excavation of mineral shall be made and shall be accompanied by the consent of owner of the land in case of proprietary land, consent of the Department concerned in case of Departmental land and by the consent of State Revenue Department in case of State Land or any other Officer of the Department duly authorized by the said Department.

58.3 Copy of ADHAR Card and PAN Card.

59. Grant of Short term permit:

Short term permit shall be granted through open auction subject to the provisions of these rules, the short term permit shall be granted in Form "STP2" and disposal permits shall be granted on first come first serve basis.

Provided that Permits under this rule shall be granted only in cases where the Director decides such areas to be operated for short periods under

special circumstances and with adequate environmental safeguards, precautions and applicable statutory clearances from the concerned Agencies.

60. **Refusal of Application for grant of short term permit:**
The Director, or any officer authorized in this behalf, may refuse the application for grant of short term permit on the reasons to be recorded in writing.

61. **Conditions of Short term permits:**

61.1 A person in whose favour short term permit is granted under these rules shall:

(a) have to operate the specified area by formation of safety benches for safe/scientific mining, the width of the benches shall not be less than its height and the height of any bench shall not be more than 01 meter.

(b) shall take all precautions for the protection of environment and control of pollution.

(c) not transfer such permit.

(d) be bound to record the extracted material at the nearest Mineral Check Post.

(e) surrender such permit after the quantity noted therein is dispatched, to the Department within a week after the last consignment of dispatch along with the particulars by giving the details of the name of the consignee, the date and dispatch etc.

(f) have to make the transportation of mineral removed from the area under a duly authenticated challan in Form "A"

(g) allow the executive staff and the officers of the Department of Geology & Mining to inspect, check and measure the minor minerals at all stages including its transportation.

(h) be responsible for any third party claim/interference and department shall not be responsible for such claims/interference within mineral concession area.

(i) have to indemnify and always keep indemnified department of all injuries/ accidents/claims of third party within area of mineral concession.

61.2 Failure to comply with any of the above conditions shall lead withdrawal of the permit or cancellation of the same.

61.3 The department shall have the right to claim additional royalty dues on the scrutiny of the sale documents and the test checks, provided the excess quantity is not beyond 10% of the quantity mentioned in the permit. In case the excess quantity is beyond 10% permit holder shall be liable to pay back to the department the excess quantity excavated/ used as assessed by the District Incharge.

61.4 Guarantee amount equal to double the amount of royalty shall also be paid by the short term quarry permit holder in advance.

Chapter - VIII
**Establishment of Mineral Check Posts, Storage and
Transportation of minerals**

62. **Establishment of Check Posts, Barriers:**

62.1 If the Government consider it necessary to do so, with a view to prevent illegal mining, transportation and storage of minerals at any place or places within the State it may direct for setting up of check posts or erection of a barrier or both at such place or places as it deem fit.

62.2 The Director, or any other officer authorized by the Government in this behalf may check any carrier carrying the mineral at any place and the owner or the person in charge of the vehicle shall furnish the prescribed form and other particulars as demanded by the officer.

63. **Inspection of minerals in transit and its weighment:**

63.1 Every owner or person in-charge of a vehicle shall carry with him a valid challan in triplicate with date and time of dispatch containing necessary particulars in respect of the mineral carried and shall produce the same before any in-charge of a check post or barrier or other officer empowered in this behalf.

63.2 All vehicles transporting mineral shall stop at the check post/barrier installed by the department and shall present the authenticated challans in triplicate to in-charge check post/barrier.

63.3 The in-charge of every check post or the barrier shall after verification of challans put his signatures with date and time and retain one copy of the challan and record the details of the challan in the register maintained at the check post in **Form "B"**

Duly authenticated challans in **Form "A"** shall only be retained at the 1st check post falling on the route of transit.

63.4 If the in-charge of the check post or any other officer mentioned in sub-rule (2) above has a reason to believe that royalty has been evaded in respect of any mineral, such officer/official may require the owner or person in-charge of the carrier to pay an amount equal to 10 times the amount of royalty payable on the mineral in accordance with **Schedule-I**.

63.5 Where on weighment or by measurement it is found that the entire quantity of mineral is not covered by the challans, the amount of royalty on such difference, shall be recovered by the in-charge of the check post alongwith cost of the mineral on spot.

63.6 (a) The in-charge of the check post or the barrier or the officer empowered shall have the power to seize and confiscate any mineral which is under transit by a carrier and dispatch of which is not covered by a valid challan, if the owner or person in-charge of the carrier refuses to make payment as required.

(b) The in-charge of the check post or the barrier or any officer empowered in this behalf shall give a receipt of such mineral seized by him to the person from whose possession or control it is seized.

(c) The in-charge of the check post or any officer empowered may direct the person in-charge of the carrier to carry the mineral to the nearest police station or check post or barrier of the department;

Provided that if the person in-charge of the carrier refuses to carry the carrier to the nearest police station or check post/barrier of the Department, in-charge or any other officer empowered may seize the carrier as the case may be, and take the same in possession.

63.7 Whenever an order of confiscation in respect of mineral seized is made by an officer empowered by the Director in this behalf such officer/official shall give an option to the owner or in-charge of the vehicle to pay an amount equal to 10 times of royalty in view of such confiscation. In case of failure of the owner or person in-charge of the carrier to exercise such option the confiscated material may be disposed off by the confiscating officer/official or any other officer authorized in this behalf by public auction by beat of drum.

Provided that no such mineral confiscated shall be disposed off by the confiscating officer/official or any other officer authorized in this behalf before 48 hours of such confiscation and till that time option shall remain with the owner or person in-charge of the carrier to carry the mineral after paying the cost of the mineral.

64. **Restrictions for Stocking and Trading of minerals:**

No person other than a mineral concession holder shall stock sell or offer sale of any mineral/mineral products in raw or processed form for commercial purpose or trade without holding a license for the said purpose.

65. **Restrictions on Transportation of minerals:**

65.1 No person shall transport or cause to be transported any mineral, in whatever form, from one place to another by any carrier under these rules without a proper challan in Form "A" duly authenticated by concerned District Mineral Office;

Provided that no mineral concession holder, as the case may be, shall transport or cause to be transported any mineral from the river/nallah bed like sand, bajri and boulder etc. to any other site without obtaining a specific NoC in this regard from the concerned Executive Engineer Irrigation and/or Flood Control.

65.2 The mineral concession holder either shall prepare in his name machine numbered quadruplicate challan, at his expense as per Form "A" or shall apply for and shall be issued the challan books containing such duly numbered challans by the officer-in-charge of the district concerned. The challan book before being put to use shall be got authenticated by the officer in-charge of the District Mineral Office, concerned. The mineral concession

holder, as the case may be, shall maintain a register of all receipts and dispatches along with the challans issued by him and furnish such details in monthly production and dispatch reports and shall maintain a complete account of challan books utilized by him.

65.3 A mineral concession holder shall give the proper challans issued to him to every purchaser of the mineral for lawful dispatch and disposal of the mineral, in whatever form, following a proper serialism, from the concession area.

65.4 The officer-in-charge of the district concerned shall not issue any further booklets to the mineral concession holder as the case may be till such time the concession holder/licensee submits a complete account of the booklets or challans issued to him on the previous occasion and used by him, keeping a margin of not more than such number of challans as may be required for a period not more than seven days for the intervening period.

65.5 All relevant details such as the source of dispatch, the registration number of the carrier, the weight (in MT) or quantity of mineral dispatched from the source, the name of the transporter and the destination of consignment shall necessarily be filled-up in a legible manner in the proper challan, which shall be liable to be presented at every mineral check post coming on the way of transit or on demand by an authorized officer.

65.6 All above information shall be computerized and put up on the website on weekly basis failing to which disciplinary action to be initiated against the in-charge officer.

66. **Unlawful Transportation and Excavation etc of minerals:**

Wherever a carrier/machine is found to be transporting/excavating any mineral in whatever form, without a proper challan as required under these rules, he shall be liable to be dealt as under:

- (a) Where a carrier is found to be indulging in violation of the rules for the first time, the said mineral would be liable to be seized along with the carrier, which may be released only upon realization of the payment of price of the mineral and the applicable royalty for the mineral being transported and a fine not less than Rs. 10,000/-.
- (b) Wherever a carrier is found to be indulging in such violation for the second time, the said mineral along with carrier shall be seized and released after three days upon realization of price of mineral and the applicable royalty and a fine which shall not be less than Rs. 20,000/-.
- (c) Wherever a carrier is found to be indulging in such violation for the third time or more, the in-charge officer shall proceed as per the Section 21 of the Act.

CHAPTER-IX
MINES AND MINERALS DEVELOPMENT RESTORATION AND
REHABILITATION FUND

67. **Mines and Minerals Development Fund:** A Fund known as the Mines and Minerals Development, Restoration and Rehabilitation Fund (MMDRRF) shall be established under 'public account' in the State under the administrative control of the Department to which rehabilitation charges payable under Section 15 A of the Act shall be credited in order to meet the following objectives:
- (a) funding of the restoration or rehabilitation works in the sites affected by mining operations;
 - (b) provision of common facilities for the benefit of community in and around areas where mining activities are undertaken;
 - (c) development of infrastructure facilities for orderly growth of the mining operations and allied activities,
 - (d) funding of the studies commissioned or activities related to the mining sector e.g survey, exploration and prospecting of minerals, procurement of equipment and machinery required to support such activities;
 - (e) education, awareness and training of the mineral concession holders and the staff of the Department through field visits/excursions and exposure to the best mining practices;
 - (f) funding of expenditure incurred on implementation of any scheme of incentives that the State Government may frame for recognition and awards for scientific mining undertaken with highest regard to mineral conservation, rehabilitation measures along with environmental safeguards and other measures;
 - (g) any other objectives which the Government may consider expedient to support in the overall interest of the mining sector.
68. **Contribution to Mines and Minerals Development Fund :**
- 68.1 An amount equal to ten percent of the dead rent or royalty or contract money paid to the state shall be charged from the mineral concession holder in the nature of other charges for restoration and rehabilitation works and credited to the fund in addition to the amount payable to the Government on account of such dead rent or royalty or contract money as the case may be.
- 68.2 The said contribution shall be remitted by the mineral concession holder in installments along with the installments of dead rent or royalty or contract money as the case may be in addition to the dead rent/royalty/contract money, such amount shall be reconciled at the closure of financial year and any differential amount due shall be adjusted or paid on reconciliation:
- 68.3 The Govt. shall also set apart and contribute five percent of the amount received by it on account of the dead rent or royalty or contract

money as the case may be in a financial year to the fund in the manner decided in consultation with the Finance Department of the State:

68.4 The Department shall maintain complete account of receipts to the fund and the expenditure made therefrom and shall invest the progressive accumulated corpus in a manner so as to earn secure returns therefrom. Proper mechanism shall be worked out to meet the expenditure out of proposed Mines and Minerals Development Restoration and Rehabilitation Fund with a very clear and visible participation of the local residents. A separate detailed process shall be devised in this regard with the concurrence of the Finance Department. However, the expenditure will be made on the basis of Pardhan Mantri Khanij Kshetra Kalyan Yogna (PMKKKY) issued by Ministry of Coal, Government of India to be implemented by District Mineral Foundations.

69. **Utilization of Mines and Minerals Development Fund:**

69.1 The amount available in the fund shall be utilized strictly for fulfillment of the objectives for which the fund is set up and on the terms and conditions as may be stipulated by the committee constituted for the said purpose under these rules.

69.2 The expenditure on restoration and rehabilitation of the mining sites shall remain the first charge on the fund.

69.3 Every mineral concession holder before undertaking the restoration and rehabilitation works as a part of his progressive mine closure plan shall get his estimates of expenditure on such works duly approved from the Director or an officer authorized by the Government in this regard and submit the utilization certificate duly certified by a registered chartered accountant. This work shall be executed under the supervision of the Forest Department as the case may be. The mineral concession holder shall be entitled to get the expended amount re-imbursed being limited to the amount contributed by him and any expenditure incurred over and above this limit shall have to be borne by the mineral concession holder of his own.

Explanatory Note: Notwithstanding the expenditure incurred by a mineral concession holder on the measures taken for the progressive mine closure plan the occasion for undertaking the complete restoration and rehabilitation works in respect of any mining area arises only when a mine reaches the closure stage or so declared by the Department. It is likely that the mining operations would have been undertaken by multiple concession holders before reaching the stage of closure of a mine, making it imperative that the comprehensive measures for restoration and rehabilitation of a mining site are taken up only upon closure of such mine. The responsibility for execution of such plan shall rest with the mineral concession holder operating such area at the time of its closure. Since the contribution to the fund is also made by concession holders who have operated the area during the intervening period, the financial burden of restoration and rehabilitation measures shall not be borne by the last concession holder alone.

69.4 A mineral concession holder operating the mine at the time of its final mine closure plan shall prepare and submit the estimates for implementation of the final restoration and rehabilitation plan prepared by RQP to the Director for approval of the estimates. The Director would obtain necessary domain assistance from the Forest Department before approval.

69.5 The Director shall approve such estimates with or without any modifications as suggested by the Forest Department and reimburse the expenditure actually incurred on the site by the implementing agency in phased manner out of the fund. The amount so re-imbursed shall not exceed the total amount received from the mineral concession holders in respect of that site less the expenditure already incurred earlier.

69.6 The Director may require the mineral concession holder to engage an independent agency for implementation of the restoration and rehabilitation works and evolve a system of monitoring the deliverables through an independent agency.

70. **Constitution of Committee for approval to expenditure:**

- (i) Any or all proposals for expenditure from the fund shall be approved by a committee of officers constituted by the Government.
- (ii) The mode and method of collection, remittance, and utilization of other charges shall be notified separately by the Government.

CHAPTER -X
Assessment of Royalty

71. **Assessment of royalty:**

71.1 Assessment and determination of royalty due from an assessee for an assessment year or as required shall be made by assessing authority authorized by the Government after the returns in respect of that year have been filed by the assessee as required under terms and conditions of the deed or the statement of production, dispatches or consumption submitted by the person concerned or upon checking the stock and other records of the assessee:

Provided that the assessing authority may make provisional assessment for a particular period during the assessment year after the receipt of statistical returns in respect of that period.

71.2 For the purpose of assessment of royalty as mentioned in sub-rule 71.1, the assessing authority may fix a date and place at which the assessee shall produce such records as may be required by it (assessing authority) in respect of production, removal, consumption and stocks, bills of sales, labour attendance, payments and any other account books connected with these matters.

71.3 For the purpose of sub-rule 71.2, the assessing authority may serve a Fifteen days notice upon the assessee requiring him to appear in person or by an agent duly authorized in writing on a date and at place specified in the notice and to produce or cause to be produced any evidence on which the assessee relies in support of the correctness of the returns or statements and records furnished by him or produce or cause to be produced such accounts or documents pertaining to the assessment year and the last five years preceding the assessment year as the assessing authority may require.

71.4 On the day specified in the notice given under sub-rule 71.3 or on any other day thereafter which the assessing authority may fix, the assessing authority, after hearing and considering the evidence as may be produced by the assessee in this behalf and such other evidence and documents as the assessing authority may require, shall make an order in writing of assessment of royalty payable by the assessee.

72. **Assessment on the basis of best judgment in case of failure to submit monthly and annual returns or in case of likely evasion of royalty.-**

If the assessee fails to furnish the details under these rules within the period prescribed and the assessing authority has reasons to believe that the assessee has evaded or avoided any royalty, the assessing authority may after giving assessee a reasonable opportunity of being heard not beyond thirty days notice and after making such inquiry, as considered necessary, assess the royalty for the period to the best of its judgment. The amount so assessed shall be payable by the assessee forthwith and in case of default in payment,

the amount so assessed shall be recovered as arrears of land revenue under the J&K Land Revenue Act and Rules.

Provided that no such royalty assessment shall be made on best judgment basis without obtaining prior approval of the next higher authority.

73. **Assessment of royalty incorrectly assessed:**
(i) If for any reason, the whole or any part of dispatches of mineral from the mineral concession area or consumption of mineral within the area, escaped royalty or was assessed at a low rate in any year, the assessing authority may serve a notice upon the assessee in Form "C" and may proceed to assess or re-assess the correct amount of royalty,

Provided that nothing in this sub-rule shall be deemed to prevent the assessing authority from making an assessment to the best of its judgment.

(ii) No notice under sub-rule (1) shall be issued in respect of dispatch and consumption of mineral for any year after expiry of five years from the date of relevant assessment.

Provided that this rule shall not apply for any assessment or re-assessment made in consequence of or to give effect to any finding or direction contained in an order in appeal or revision or in an order of any competent court.

Chapter - XI
Illegal or Un-authorized Mining

74. **Illegal or Un-authorized Mining:**

Any person undertaking any mining operations without a valid mineral concession granted under the Act and the rules framed thereunder in any area shall be deemed to be indulging in illegal or un-authorized mining and shall be dealt in accordance with the provisions contained in this chapter.

75. **Penalties:**

Any act of illegal or un-authorized mining shall be liable to the following: -

75.1 for a first time violation, the said mineral shall be liable to be seized alongwith the impounding of all such tools, equipments, vehicles or any other things used for such un-authorized operation, which may be released only after recovery of price of mineral along with its royalty and a fine not less than Rupees ten thousand.

75.2 for a second time violation, the said mineral shall be liable to be seized along with the impounding of all such tools, equipments, vehicles or any other things used for such un-authorized operation for a minimum period of seven days which may be released only after recovery of price of mineral along with its royalty and a fine not less than Rupees twenty thousand.

75.3 Wherever a person is found to be indulging in such offence for the third time or more, the officer concerned shall lodge an FIR and handover all such tools, equipments, vehicles or any other things used for such un-authorized operation to the police. Any such offence shall entail;

(a) confiscation of all such tools, equipments, vehicles or any other things used for such un-authorized operation for a minimum period of thirty days or more, and

(b) Pecuniary penalty and punishment for the offence as provided under Section 21, 23A & Section 23B of the Mines and Minerals (Development & Regulation) Act, 1957.

76. **Offences by Companies:**

(i) If the person committing an offence under these rules is a company registered under the companies Act, every person, who at the time when the offence was committed was in-charge and was responsible to the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-rule shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(ii) Where an offence under these rules has been committed with the consent or connivance of any Director, Manager, Secretary or other authorized representative of the company, such Director, Manager, Secretary or other authorized representative shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

77. **Cognizance of any offence:** No court shall take cognizance of any offence punishable under these rules except upon a complaint in writing made by the Director or any other officer authorized by the Government in this behalf not below the rank of Assistant Mineral Officer within three months of the date on which said offence is alleged to have been committed.

Provided that Junior Overman/Sr.Overman/Mine Surveyor/ Regional Inspector/Geological Assistant shall obtain prior approval of the Joint Director, Geology and Mining Department before filing any complaint.

CHAPTER -XII
Delegation of Powers, Appeal and Revision

78. **Delegation of powers:** The Government may, by notification in the official gazette or as deem fit direct that any or all the powers exercisable by it under these rules may in relation to such matters and subject to such conditions, if any, as may be specified in the notification be exercisable also by such officer or authority subordinate to the Government.
The delegation of some of the powers under these rules shall also be exercised by the Officers shown as under:-
- (i) Section 21(4) and 21(5) of the Act: officer in-charge District Mineral Office concerned within his jurisdiction.
 - (ii) Section 22, Section 23A and Section 23B of the Act: Assistant Mining Engineer/ Mineral Officer/ Geologist Grade-11&1/ Mining Engineer/ Dy. Director/ Joint Director within the areas of their jurisdiction in addition to Section 21(4) and 21(5) of the Act.
79. **Appeal:**
- (i) Any person aggrieved by an order passed by any officer in-charge subordinate to Director shall have the right of appeal to the Director.
 - (ii) Any person aggrieved by an order passed in appeal under sub-rule (1) or any other order passed by the Director under these rules shall have the right of appeal to the Government.
 - (iii) The order passed by the Government in appeal shall be final.
80. **Form of Appeal and Fees:**
- (i) An appeal under Rule 79 shall be presented in the form of memorandum of appeal in duplicate numbered in paragraphs stating concisely and precisely the grounds of appeal and relief demanded.
 - (ii) The memorandum of appeal shall be accompanied with a fee Rs. 5,000/- deposited in the Government treasury under the relevant Account Head.
81. **Limitation:** An appeal under Rule 79 shall be filed within three months of the date of communication of the order appealed against;
Provided that delay in filing appeal may be condoned if the appellant satisfies the appellate authority that there was sufficient cause for not filing the appeal within the stipulated period.
82. **Procedure of Appeal:**
- (1) Upon receipt of memorandum of appeal satisfying requirement of rules 79 and 80, the appellate authority shall fix a date for hearing, and if it finds fit, may call for the relevant records and other information from the officer whose order is the subject of appeal.
 - (2) The appellate authority may confirm/modify or set aside the order under appeal, after giving the appellant an opportunity of being heard and

considering any comments that might be offered by the Officer whose order is under appeal.

83. **Revision:**

(i) The Government in respect of any order, whether in appeal or otherwise passed under these rules by the Director, may on an application by an aggrieved party made within 03 months of communication of such order in this behalf or of its own motion call for and examine the connected records for the purpose of satisfying itself as to the correctness, legality or propriety of the order and may confirm, modify or rescind such order;

Provided that an application for revision may be admitted by the Government after the said period of 03 months, but not beyond six months, if the Government is satisfied that the applicant had sufficient cause for not filing the revision application in time.

(ii) Every application for revision shall be made in **Form "D"** in duplicate and shall be accompanied by a fee of Rs.2,000/- deposited in the Government treasury under the relevant account head.

CHAPTER-XIII
Miscellaneous

89. Rate of Interest
does in respect
after one month

84. **Mining operations to be under Mineral Concession:** No mineral concession shall be granted otherwise than in accordance with the provisions of these rules and if granted shall be deemed to be null and void.
85. **Reservation of area for prospecting or mining operations by the Department:** Where the Department proposes to undertake exploration/exploitation of any mineral, Director shall reserve the area by issuance of a notice, in at least three daily newspaper having maximum circulation in the State. The notice shall give details of area and the period for which such operations are proposed to be undertaken.
86. **Status of the grant on the death of applicant for Mineral Concession:**
(i) Where an applicant for grant or renewal of any mineral concession dies before the order of grant/renewal as the case may be is passed, the application for the grant or renewal of mineral concession shall be deemed to have been made by his legal heir/representative.
(ii) In the case of an applicant in respect of whom an order granting or renewing a mineral concession is passed, but dies before execution of the deed, the order shall be deemed to have been passed in the name of the legal heir/representative of the deceased.
87. **Register to be open for inspection:**
All registers maintained by the Department under these Rules shall be open for inspection by any person who holds or intends to acquire a mineral concession on payment of a fee of Rs.100/- for each inspection.
88. **System of working/River Bed mining:**
88.1 System of working in minor minerals shall be performed as per the Mines Act, 1952(35 of 1952) and Metalliferous Mines Regulations, 1961.
88.2 In case of river bed mining:
(a) specific river stretches shall be identified and mineral concessions shall 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 shall be restricted to 3 mts./Water level, which ever is lesser.
(c) for carrying out Mining in proximity to any bridge and/or embankment, appropriate safety zone shall be worked out on case to case basis, taking into account the structural parameters, locational aspects, flow rate etc and no mining shall be carried in the safety zone so worked out.

89. **Rate of Interest:** Simple interest at the rate of 15% shall be charged on all dues in respect of dead rent, royalty, and royalty collection contract amounts after one month from the date it becomes due.
90. **Dues may be recovered as arrears of land revenue:** Notwithstanding anything contained in these rules, Director or an officer authorized by the Government may recover any dues in respect of dead rent, royalty, fee, royalty collection contract amount, cost of mineral, penalties and any other dues payable under these rules together with interest in the same manner as if it were an arrears of land revenue under the law in force relating to such recovery.
91. **Relaxation of Rules:** The Government may relax any provision of these rules for reasons to be recorded in writing.
92. **Power to summon:**
- (i) The assessing authority, for the observance of these rules and for reasons to be recorded, may summon any of the parties using and/or dealing with the mineral in the State and may demand necessary information and sources from where the mineral has been procured and the assessing authority may also depute any official by an order in writing to collect such information and thereafter assess the royalty or the cost of mineral recoverable as the case may be.
- (ii) Any person who is engaged in trading of minerals shall maintain a correct account of mineral purchased stocked and sold by him and these records shall be produced for inspection if required by assessing authority or a person authorized by assessing authority in this behalf. Provided that if such trader fails to produce record for mineral purchased by him, the assessing authority may enter into any place where the mineral is stored and, measure or count it and assess cost of mineral which shall be recovered from the trader.
93. **Service of Notice:**
- (i) Every notice under these rules required to be given to the mineral concessionary shall be given in writing in person or by registered post addressed to him at the address recorded in his application or such other address as the concessionary may from time to time intimate in writing to the concerned authorities having jurisdiction.
- (ii) The service of such notices on any adult male member of the family, his agent or any other person purporting to be his agent or any other person maintaining his books of account or issuing challans or filing monthly statistical returns shall be deemed to be proper and valid service upon the concessionary and shall not be questioned or challenged by him. An endorsement by postal employee that the concessionary or any of the aforesaid persons refused to take the delivery or non-availability of the

73.

person at the last known address may be deemed to be prima facie proof of service.

94. **Revision of Royalty, Dead Rent and fee etc:**
The Government may, by notification in the Official Gazette, amend Schedule-I, II & III so as to revise the rates of royalty/dead rent/fee payable under these rules with effect from such date as may be specified.
Provided that enhancement of rate of royalty, dead rent i.r.o any minor mineral and fee payable under these rules shall not be enhanced more than once during any period of three years.
95. **Contravention of certain conditions of minor mineral concession:** Any minor mineral concessionary or his transferee or his assignee, who commits a breach of any of the conditions of the mineral concession shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to Rs. 5000/- or with both and in case of continuing contravention, with an additional fine which may extend to Rs.500/- for every day during which such contravention continues after conviction for the first such contravention.
96. **Role of Police:** The authority/authorities empowered to take action under these rules, if necessary, request in writing for the help of the local police and the police authorities shall render such assistance, as may be necessary to enable the officer to exercise the power/powers conferred on him under these rules to stop un-authorized mining and transportation of minerals.
97. **Investigation of offences:**
(i) Subject to such conditions as may be specified the Director may authorize any officer from Geology/Mining discipline not below the rank of Assistant Mineral Officer to investigate all or any of the offences punishable under these rules.
(ii) Every Officer so authorized shall in the conduct of such investigations, exercise the judicial powers conferred by the **Code of Criminal procedure** upon an officer In-charge of a Police station for the investigation of a cognizable offence.
98. **Power to take evidence on oath:** The assessing authority or investigating officer and the appellate authority shall for the purpose of these rules have the same powers as are vested in a court under the Code of Civil Procedure when trying a suit in respect of the following matters, namely:-
(i) enforcing the attendance of any person and examining him on oath or affirmation;
(ii) compelling production of documents;
(iii) issuing commission for examination of witnesses.
All proceedings before the appellate authority, the assessing authority and investigating officer shall be deemed to be a "Judicial Proceedings"

within the meaning of Section 193, 196 and 228 of the Ranbir Penal Code, Samvat, 1989.

99. **Powers of entry, inspection of records and seizure of books of accounts of a Concessionary:**

99.1 An assessing authority or investigating officer authorized by Director in this behalf may for the purpose of these rules, require any concessionary to produce before him the accounts, registers and other documents and to furnish any other information relating to mining operations or business.

99.2 All accounts, registers and other documents pertaining to the business of a concessionary, the minerals in his possession or in the possession of his agent or broker for the time being on his behalf and their office, godown, factory, vehicle or any other place where the business is done or accounts are kept shall be open for inspection and examination of any such authority or person at all reasonable time.

99.3 If any such authority or person has reason to suspect that any concessionary is attempting to evade payment of royalty or other dues payable under these rules, he may, for the reasons to be recorded in writing, seize such accounts, registers or other documents of the concessionary as he may consider necessary and shall give its receipt. The accounts, registers and documents so seized shall be retained by such officer only for their examination or for any inquiry or proceedings under these rules or for prosecution:

Provided that the accounts, registers and documents so seized shall not be retained by such officer beyond a period of three months from the date of seizure without the written order of the Director for reasons to be recorded in writing:

Provided further that before returning the accounts, registers and documents such officer may require that the concessionary shall give a written undertaking that the accounts, registers and documents, shall be presented whenever required by any competent authority for proceedings under these rules.

99.4 For the purpose of sub-rule (2) and (3) any such authority or person shall have powers to enter and search at all reasonable times any office, godown, factory or vehicle or any other place of business or any building or place where such authority or person has reason to believe that the concessionary keeps or for the time being is keeping any minerals, accounts, registers or other documents pertaining to his business or mining operations and also to search the body of any other person found in such office, godown, factory, vehicle, building or place about whom any such authority or person has reason to suspect that he may have in his personal possession any such books of accounts, registers or documents.

99.5 Such authority or person may, when it is not practicable to seize any books or accounts, registers, documents or mineral, serve upon the concessionary or the person who is in immediate possession or control

thereof, an order that he shall not remove, part with or otherwise deal with them except with the previous permission of such authority or person who may take such steps in accordance with rules, as may be necessary for ensuring compliance of this sub-rule.

99.6 The power conferred by sub-rules (4) and (5) shall include the power to break open any box or receptacle in which any accounts, registers or documents of concessionary may be contained or to break open the door of any premises where any such mineral, accounts, registers or documents may be kept or to place marks of identification on his books of accounts, registers or documents or to make or cause to be made extracts or copies thereof;

Provided that the power to break open, the door shall be exercised only after the concessionary or any other person in occupation of the premises is present therein and fails or refuses to open the door on being called upon to do so.

99.7 Any such authority or person shall have power to seize any mineral, the removal or sale of which is liable to payment of royalty or cost and which are found in possession of a concessionary or in the possession of his agent or broker or of any other person for the time being on his behalf or in any office godown, factory, vehicle or any other place of business or building of the concessionary or of the agent, the broker or of any other person holding the said mineral on his behalf but not accounted for by the concessionary in his accounts, registers and other documents maintained in the course of his business or any mining operations:

Provided that list of minerals/documents seized under this sub-rule shall be prepared by such authority or person and signed by two respectable witnesses.

99.8 An officer/authority as mentioned at sub-rule (1) above may after giving the concessionary an opportunity of being heard and holding such further inquiry, as he may consider fit, realize from him, for the possession or mineral not accounted for, the cost of mineral as ten times of royalty.

99.9 Such Officer or authority may release the mineral or documents seized under these rules on payment of cost of mineral or on furnishing such security for payment thereof as he may consider necessary.

99.10 Any such authority or person may require any person:-

(a) who transports or holds in custody for delivery to or on behalf of any concessionary, any mineral to give any information likely to be in the possession in respect of such mineral or to permit inspection thereof as the case may be; and

(b) who maintains or has in his possession any accounts, books or documents relating to the business/mining operations, to produce such accounts, books or documents for inspection.

99.11 The provisions of Code of Criminal procedure relating to searches shall apply, so far as may be, to the searches made under these rules.

10. Rights of existing concession holders/applicants:

All the applications received prior to commencement of these rules shall become ineligible.

Provided that the applicants who have completed all the formalities as provided in the rules under repeal including all clearances asked for and Mining Plan and Environmental Clearance shall remain eligible subject to the further condition that the application has not become ineligible under the provisions of these rules.

101. **State and District Mineral Foundation:** In every District of the State affected by mining related operations and at State level, the Government shall by notification establish a trust as a non-profit body to be called the District Mineral Foundation under the State Mineral Foundation. The composition, functioning, contribution of the concession holders and the manner in which the foundation work, shall be notified separately by the Government

102. Exemption:

Notwithstanding anything contained in these rules, no rent, royalty or fee shall be charged for minor minerals extracted during;

(i) Excavation of Canals and foundation of any other works of the State Irrigation Department and Public Works Departments. However, the Engineering Departments shall have to obtain requisite minor mineral concession under these rules before its transportation and consumption for the works/sites;

(ii) Extraction of minor mineral by an agriculturist from his/her private land for his/her bonafide purpose of agriculture.

(iii) Search for and obtaining the samples of minerals on the surface by chipping of outcrops without involving any disturbance of the soil by way of pit, trench or otherwise;

103. Repeal and Savings:

The Jammu and Kashmir Minor Mineral Concession Rules, 1962 and Jammu and Kashmir Prevention of Illegal mining, Transportation and Storage of minerals Rules, 2003 are hereby repealed.

Provided that anything done or any action taken under the provisions of the rules so repealed shall be deemed to have been done or taken under the provisions of these rules.

The above rules shall come into force with immediate effect.

IND/ Legal/ 27/2013

DT: 06.01.2016

Place: Jammu.

Shailendra
(Shailendra Kumar) IAS

Commissioner Secretary to Govt.
Industries & Commerce Department

Copy to:-

1. Secretary, Ministry of Mines, Govt. of India, New Delhi.
2. All Administrative Secretaries, Government of J&K.
3. Divisional Commissioner, Jammu/Kashmir.
4. All Deputy Commissioners.
5. Director, Geology & Mining, J&K
6. Managing Director, JKML/JKCL
7. General Manager, Government Printing Press Jammu for publication in the Official Gazette.

Schedule-I
Rates of royalty of Minor Minerals
(see rule 38(38.1a,b), 50(50.1), 63(63.4) and 94)

S No.	Name of Minor Minerals	Royalty rates as per MT(Rs.)
1	Dimensional Stones	
1.1	Limestone used for making dimensional stone like Devri Stone Hamam Slabs, Grave Stones and other domestic items.	45.00
1.2	Sand stone when used for dimensional stone	25.00
1.3	Baramulla Slabs(Phylitic)	25.00
2	DECORATIVE STONES	
2.1	Marble, Granite, Slate & Basalt(dressed block) for sawing into slabs and tiles.	230.00
2.2	Granite, Marble, Slate, Basalt, Sand Stone, Limestone etc for manufacture of chips.	70.00
3	ROCKS/MINERALS USED FOR BUILDING PURPOSES AS ROAD METAL, MASONARY STONE AND FOR BUILDING LIME	
3.1	Limestone(specified by Central Government for the purpose) when used in Kiln for the manufacture of limes used at building material	40.00
3.2	LIMESTONE USED AS MASONARY STONE AND ROAD METAL	
3.2.1	Rubble	25.00
3.2.2	Phandai	35.00
3.3	BASALT, QUARTZITE, GRANITES, SANDSTONE USED AS MASONARY STONE AND ROAD METAL	
3.3.1	Rubble	25.00
3.3.2	Phandai	35.00
4	NALLAH BOULDERS, BAJRI, SAND	
4.1	Nallah Boulders	20.00
4.1.1	Crushing (crushed stones)	25.00
4.1.2	Masonry Stones	35.00
4.1.3	Nallah Muck	25.00
4.2	Nallah Bajri	35.00
4.3	Crushed Bajri	40.00
4.4	Screened Pebbles	40.00
4.4	Ordinary Sand	25.00
4.5	Screened Sand	30.00
5	CLAYS	
5.1	Clay other then used for Brick manufacture	20.00
5.2	Clay when used for manufacture of Brick	25.00

5.3	Bentonite and fuller earth	85.00
5.4	Ordinary earth	25.00
6	China Clay	70.00
6.1	Gypsum	90.00
6.2	Corundum	5% of the sale value.
7	All OTHER MINERAL NOT SPECIFIED	15% of pit mouth value.

Schedule-II
Rates of dead rent of Minor Minerals
(see rule 38(38.1d) & 94)

S. No.	Rate of Dead Rent	2 nd to 5 th year in Rs. Per hectare per Annum	6 th to 10 th year in Rs. Per hectare per Annum	Above 10 years in Rs. Per hectare per annum
1	Upto 5 hectares or part thereof	3,600/-	7,200/-	10,800/-
2	Above 5 hectares but not exceeding 10 hectares	5,000/-	10,000/-	15,800/-
3	Above 10 hectares	8,625/-	17,250/-	25,900/-

Schedule III
(see rule, 94)

- 1) Rates of Guarantee amount for the Mineral Concessions granted other than by Competitive Bidding/Auction for the minerals not specified in 2,3 & 4.

Rates of Guarantee amount in rupees per Hectare per Annum		
For the 1 st year of Mineral Concession	From 2 nd Year to 3 rd Year	4 th Year onwards
20,000	50,000	1 lac

- 2) Two times the rates specified under 1 above in case Mineral Concessions is granted for Marble, Granite, Quartzite, Slate and other decorative stones.
- 3) Three times the rates specified under 1 above in case Mineral Concessions is granted for Gypsum and Ocher.
- 4) Ten times the rates specified under 1 above in case Mineral Concessions is granted for Corundum and other Gem Stones.

Government of Jammu & Kashmir
Department of Geology & Mining

FORM "A"

See Rule 38(38.5), 50(50.12) 61(61.1 f), 63(63.3), 65(65.1&2))
of challan for dispatch of mineral and its products

Challan No. _____ (in quadruplicate) copy each for consigner, consignee, mineral check post, driver

1. Type of Mineral Concessions
Lease/license/permit
No./Date with validity of the concession _____
2. Name & Style of concessionary _____
3. Location of mineral concession area _____
4. Type of mineral granted on mineral concession _____
5. Quantity of mineral granted on mineral concessions _____ (in MT)
6. Quantity of mineral dispatched _____
7. Date of dispatch _____
8. Time of dispatch _____
9. Vehicle No. _____
10. Name & address of consignee/buyer _____
11. Name of Driver _____

space for authentication of Officer
I/C District Mineral Office concerned
with ruber stamp containing signature

Signature of Mineral Concessionary

For use at check post

1. Vehicle No _____ reported at check post on (Date) at (time) and the particulars of quantity & quality have been verified and entered in the register at Serial No _____.
2. The quantity was in excess in challan by _____ tonnes for which price of Mineral besides royalty amounting to Rs. _____ (in words) _____ has been charged under GR No _____ dated _____ issued to Driver/owner.

Seal and signature of
Incharge Mineral Checkpost

Government of Jammu & Kashmir
Department of Geology & Mining

FORM "B"

See Rule (63(63.3))

Register to be maintained at mineral check post

01. S.No
02. Date
03. Name of Mineral Concessionary
04. Name of Mineral
05. Quantity of Mineral
06. Form of Mineral(finished or raw)
07. Name and address of consignee
08. No & Date of Challan
09. Vehicle No.
10. Name of Driver
11. Time of Reporting at Check Post.
12. Amount of Cost+Royalty realized for excess mineral
 - (a) G.R.No.
 - (b) Date
13. Signatures of Incharge

Government of Jammu & Kashmir
Department of Geology & Mining

To be served in person or
by regd. post through
registered post with A/D

FORM "C"

Notice of Assessment to Assessee
See Rule {73(i)}

From:-
Department of Geology & Mining
J&K Govt. Jammu/Srinagar.

To: (Assessee with
Name & Address

No. _____

Dated:- _____

Subject:- Notice for re-assessment of royalty in respect of mineral concession granted for
mineral near Village _____ Tehsil _____ District _____

Dear Sir,

Refer this office letter No. _____ dated _____ vide which the
assessment of royalty for the assessment year _____ in respect of your mineral
concession area mentioned above was made and conveyed. The same has been incorrectly
assessed. You are therefore, asked to report in the office of undersigned at
_____ along with records mentioned below within a period of 15 days from the receipt
of this Notice.

In case you fail to be present yourself along with records, the assessment shall be
made in your absence and the balance amount shall be recovered as arrears of land revenue
besides, action as per agreement.

Records to be produced

- 01) Production register 02) stock register 03) challan book
04) payment slips 05) challan register 06) bill book
07) labour payment register; 08) cash book and other records connecting with the mining
lease 09) any other records or documents with is sought to be produced.

Authorized Officer
Geology & Mining Dept.
With designation & location of the office.

Government of Jammu & Kashmir
Department of Geology & Mining

FORM-D

(to be submitted in triplicate)

See Rule 83(ii)

1. Name and address of individual(s), firm or company, applying.
2. Profession of individual(s), firm or company.
3. No. and date of order of the authority, against which the appeal/revision application is filed (copy attached).
4. Designation of the authority having passed the said order.
5. Minor Mineral(s) for which the revision application is filed.
6. Details of the area in respect of which the revision application is filed.

District	Tehsil	Village	Total area claimed
----------	--------	---------	--------------------

(A map or plan of the area(s) to be attached).

7. Whether application fee has been deposited in the manner prescribed in sub rule (2) of Rule 81 of J&K Minor Mineral concession, Storage, Transportation and prevention of Illegal Mining Rules,2014 if so, the Treasury receipt in original should be attached.
8. Whether the appeal/revision application has been filed within time specified in Rule 82 if not, the reasons for not presenting it within the prescribed limits as provided for in rules.
9. Name and complete address of the party/parties impleaded, under J&K Minor Mineral concession, Storage, Transportation and prevention of Illegal Mining Rules,2014.
10. No. of copies of petitions/applications attached
11. Grounds of revision.
12. If the revision application has been filed by the holder of Power of Attorney, the Power of Attorney to be attached.

Signature or the applicant

Place:

Date:

Government of Jammu & Kashmir
Department of Geology & Mining
(FORM - ML1)

Application for Mining Lease (See Rule 28 (28.1))

To be submitted in Triplicate

Received at (Place) on (Date)
Initials of receiving Officer

Entered at S.No.

Page No. ___ of Form "ML4"

To
The Director,
Geology & Mining Dept.
Jammu/Srinagar.

Sir,

1. I/We request that a mining lease under Minor Mineral Concession Rules may be granted to me/us.
2. A sum of Rsbeing as the application fee have been deposited (vide receipt/Treasury challan No.....dated.....in the Treasury
3. The required particulars are given below:
 - (i) Name of the application with complete address and status
 - (ii) Is the applicant a private individual/co-operative/Firm/ Association/Private/Public Company/, Public/Joint Sector undertaking or any other.
 - (iii) In case the applicant is:-
 - (a) an individual, his qualifications and experience relating to mining
 - (b) a company, an attested copy of the certificate of registration of the company shall be enclosed
 - (c) firm or Association, the permanent residence certificate of all the partners of the firm, or members of the association; and
 - (iv) Profession or nature or business of applicant
 - (v) Particulars of documents appended:

Documents

- (a) Permanent residence certificate of J&K State
- (b) Mining dues clearance certificate

Reference

OR

Affidavit in lieu of Mining Dues Clearance Certificate: subject to the production of mining lease dues, clearance certificate within the period of 30 days of making application.

OR

Affidavit when not holding any mining lease

- (vi) Mineral or minerals which the applicant intends to mine.
- (vii) Period for which mining lease is required
- (viii) Extent of the area for which mining lease is required.
- (ix) Details of the area in respect of which mining lease is required

District Tehsil Village Khasra No. Plot No. Area Occupancy Ownership

- (x) Brief description of the area with; particulars reference to the following:-
- (a) Does the applicant have surface rights over the area for which he is making an application for grant of mining lease.
- (b) If not, has he obtained the consent of the owner, and the occupier of the land for undertaking mining operation. If so, the consent of the owner and occupier of the land be obtained in writing and be filed.
- (xi) (a) the situation of the area in respect of natural features such as streams or lakes
- (b) In the case of Village areas; the name of the village, the khasra number, the area in hectares of each field or part thereof applied for.
- (c) whether the area falls wholly or partly in Forest or protected areas
Yes/No
- If yes*, name of Forest Division, Range, Protected area, Eco-sensitive Zone, Compartment No, area within Forest/ Protected area should be communicated with a map showing clearly extent of Forest/Protected area and eco-sensitive zones with prominent features.
- If no*, map with prominent features showing the aerial distance(s) from Forest, Protected area, Eco-sensitive Zone of the proposed site, incorporated with a Certificate from the Chief Conservator of Forests/Wild Life Warden of the concerned Region.
- (xii) The area applied for should be marked on plans as detailed below
- (a) In case cadastral map of the area is available, the area on this map should be marked showing the name of the Village, Khasra number and area in hectares of each field and part thereof.
- (b) In the case of forest maps the area should be marked on the map showing the range and felling series
- (c) In case neither cadastral nor forest maps are available the area should be marked on a sketch plan drawn to scale Showing on this plan all important, surface and natural features, the dimension of the lines forming the boundary of the area and the bearing and distance of all Corner points from any important, prominent and fixed point or points.
- (xiii) Particulars of the areas mineral-wise in each State duly Supported by an affidavit, for which the applicant or any person joint in interest with him,
- (a) already holds under mining lease.
- (b) has already applied for but not granted.
- (c) being applied for simultaneously;
- (xiv) Nature of joint in interest if any.
- (xv) Broad parameters of the mineral/ore body/bodies
- (a) Strike length, average width and; dip.
- (b) Wall rocks on hanging and foot Wall sides.
- (c) Whether area is considerably; disturbed geologically or is comparatively free of geological disturbances. (copy of geological map of the area is to be attached).
- (d) Reserves assessed with their grades .

- (c) Whether the area is virgin. If not, the extent to which it has already been worked. In case there are old workings, their locations are to be shown on the geological map of the area.
- (xvi) Broad parameters of the mine
- (a) Proposed date of commencement of the mining operations.
 - (b) Proposed rate of mineral production during first 5 years (year-wise).
 - (c) Proposed rate of production when mine is fully developed, anticipated life of the mine.
- (xvii) Manner in which the mineral raised is to be utilized.
- (a) (1) If for captive use, the location of plant and Industry.
(2) for sale for indigenous consumption
 - (b) If for exports to foreign countries
 - (1) names of the countries to which it is likely to be exported where the mine is being set-up on 100% export oriented or tie-up basis.
 - (2) Whether mineral will be exported in raw form or after processing.
- Also indicate the stage of processing whether intermediate stage or final stage of the end product.
- (c) If it is to be used within the country, indicate:
 - (1) the industry/industries in which it would be used.
 - (2) Whether it will be supplied in raw form or after processing (crushing/grinding/beneficiation/calcining).
 - (3) Whether it would need up gradation and if so, whether it is proposed to set up beneficiation plant also indicate the capacity of such plant and the time by which it would be set up.
- (xviii) Name, qualification and experience of the Technical personnel available for supervising the mines
- (xix) (i) Financial resources of the applicant.
(ii) Anticipated yearly financial investment during the course of mine construction and aggregate investment up to the stage of commencement or commercial production.
- (xx) (a) Nature of waste water, (e.g. whether acidic) If so, expected PH value.
(b) The application form should be accompanied by a statement of the salient features of the scheme of mining. This should be generally on the lines of the Project at a Glance given in mining reliability report including features relating to the protection of environment.
- I/We do hereby declare that the particulars furnished above are correct and am/are ready to furnish any other details including accurate plans and security deposit as may be required by you.

Yours faithfully,

Signature of the applicant

Place.....

Date

Government of Jammu & Kashmir
Department of Geology & Mining

FORM (ML2)

(To be submitted in duplicate)

Application for Renewal of Mining Lease

See Rule 28(28.2)

Entered at S.No,

Page No. ___ of Form "ML4"

Received at (place) on (Date)

Initials of receiving Officer

To

The Director,
Geology & Mining Dept.
Jammu/Srinagar

Sir,

1. I/We request renewal of my/our mining lease under the Minor Mineral Concession Rules, A sum of Rs. 50,000/- being the application fee payable under J&K Minor Mineral Concession Rules, 2016 vide Treasury Challan No. _____ dated _____ Treasury

2. The required particulars are given below:

- (i) Name of the applicant with complete address.
- (ii) Is the applicant a private individual/Private Company/Public Company/ firm or association?
- (iii) In case applicant is:
 - (a) an individual
 - (b) a company, an attested copy of the certificate of registration of the company shall be enclosed.
 - (c) A firm or association, proof of residence 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 the mining lease of which renewal is desired;
(b) Details of previous renewal granted, if any
- (vii) Period for which renewal of mining lease is required
- (viii) Whether renewal is applied for the whole or part of the lease hold?
 - (a) Does the applicant continue to have surface rights over the area of the land for which he requires renewal of the mining lease.
 - (b) If not, has he obtained the consent of the owner and occupied for undertaking mining operations. If so, the consent of the owner and occupier of the land obtained in writing be filed.
- (x) Particulars of the areas mineral-wise in each State duly supported by affidavit for which the applicant or any person having joint interest with him:
 - (a) already holds under mining lease;
 - (b) has already applied for but not granted, or
 - (c) being applied for simultaneously.
- (xi) Is the mineral going to be used in his own industry? If so, give full details.
- (xii) In case the renewal applied for is only part of the lease hold:
 - (a) the area applied for renewal

- (b) description of the area applied for renewal, (description should be adequate for the purpose of demarcating the plot).
- (c) particulars of map of the lease hold with area applied for renewal clearly marked on it (attached).
- (d) particulars of existing or created dumps of ores, if any,
- (xiii) means by which the mineral is to be raised, i.e. manual or mechanical.
- (xiv) Manner in which the mineral raised is to be utilized.
- (a) for manufacture in State.
- (b) exports.
- (c) in the former case the industries in connection with which it is required, should be specified. In the latter case, the states/ countries to which the mineral will be exported and whether the mineral is to be exported after processing or in raw form should be stated.
- (xiv) Details of output during the last three years and phased programme for production during the next three years alongwith a layout plan for development, if any.
- (xvi) Any other particulars which the applicant wishes to furnish.

I/we/do hereby declare that the particulars furnished above are correct and am/are ready to furnish any other details, including accurate plans as required by you before the grant of renewal of the lease.

Signature of the applicant.

Place:

Date:

N.B. - If the application is signed by authorized agent of the applicant, Power of attorney should be attached.

Government of Jammu & Kashmir
Department of Geology & Mining
FORM (ML3)
See Rule 29

Acknowledgement of application for grant/renewal of mining Lease

S.No _____ Dated: _____ Received the application with the following
enclosures for the mining lease/renewal of mining lease of Sh/M/s _____ on
_____ 2014 for _____ hectares of land located in District _____ for Mining
of _____ minor minerals

Enclosures:-

Signature & designation
of Receiving Officer.

Date _____

Government of Jammu & Kashmir
 Department of Geology & Mining
FORM (ML4)

See Rule 32 (i)
 Register of mining Lease applications

S.No	Name of applicant with father/husband name with permanent address	Occupation	Present Address	Date of Application
1	2	3	4	5
	Date of Receipt of application	Area applied alongwith description	period of lease applied	mineral/minerals applied
	6	7	8	9
	Order No. & Date of grant/rejection	whether for renewal	grant or signature of officer	Remarks
	10	11	12	13

Government of Jammu & Kashmir
 Department of Geology & Mining
FORM (ML5)
 See Rule 32(ii)
 Register of mining Leases

S.No	Name of grantee with father/Husband name and permanent address	Occupation	Date of Receipt of application	Area granted with description
1	2	3	4	5
Mineral/minerals Deposits Under lease	Order No. & Date of Grant	Date of Period of lease/ renewal	Amount of Dead rent	Security deposits
6	7	8	9	10
Name of transferee With father/ husband Name and address	Date of transfer	Date of expiry/ termination/ surrender	Date from which area is free for grant	
11	12	13	14	
Signature of officer	Remarks			
15	16			

Government of Jammu & Kashmir
 Department of Geology & Mining
FORM (ML6)
 See Rule 37(37.5)

For Transfer of Mining Lease

When the transferor is an individual :-

The indenture made _____ this day of _____ 20 between _____ (Name address and occupation) (hereinafter referred to as the "transferor" which expression shall where the context so admits be deemed to include his heirs, executors, administrators, representatives and permitted assigns).

When the transferor are more than one individual:- _____ (Name of the person with address and occupation) (hereinafter referred to as the "transferor" which expression shall where the context so admits be deemed to include their respective heirs, executors, administrators, representatives and their permitted assigns).

When the transferor is a registered firm _____ (Name and address of all the partners) all carrying on business in partnership under the firm name and style of _____ (Name of the firm) and having their registered office at _____ (hereinafter referred to as the "transferor" which expression where the context so admits be deemed to include all the said partners, their respective heirs, executors, legal representatives and permitted assigns).

When the transferor is a registered company _____ (Name of Company) a company registered under _____ (Act under which incorporated) and having its registered office at _____ (Address) (Hereinafter referred to as the "transferor" which expression shall where the context so admits be deemed to included its successors and permitted assign) of the first part.

AND

When the transferee is an individual _____ (name of the person with address and occupation) herein after referred to as the "transferee" which expression shall where the context so admits be deemed to include his heirs, executors, administrators, representatives, and permitted assigns).

When the transferee are more than one individual _____ (Name of the person with address and occupation and _____ Name of the person with address and occupation) (Hereinafter referred to as the "transferee" which expression shall where the context so admits be deemed to include their representative heirs, executors. administrators, representatives and their permitted assigns)

When the transferee is a registered firm _____ (Name and address of all the partners.) all carrying on business in partnership under the firm name and style of _____ (Name of the firm) and having their registered office at _____ (herein after referred to as the "transferee" which expression where the context so admits be deemed to include all the said partners, their representative heirs, executors, legal representatives and permitted assigns).

When the transferee is a registered company _____ (Name of the company) a company registered under _____ (Act under which incorporated) and having its registered office at _____ (address) (herein after referred to as the "transferee" which expression shall where the context so admits be deemed to include its successors and permitted assigns) of the second part.

AND The Director (hereinafter referred to as the "Government/Department" which expressions shall where the context so admits to be deemed to include the successors and assigns) of the first part.

Whereas by virtue of an indenture of lease dated the _____ And Registered as on _____ (Date) in the office of the Sub-Registrar of (Place) (herein after referred to as lease) the original whereof is attached hereto and marked "A" entered into between the Director (therein called the lessor) and the transferor (therein called the lessee), the transferor is entitled to search for win and work the mines and minerals in respect of the transferor is entitled to search for win and work the mines and minerals in respect of _____ (Name of minerals) in the lands described in the schedule thereto and also in Schedule annexed hereto for the terms and subject to the payments of the rent and royalties and observance and performance of the lessee's covenant and conditions in the said deed of lease reserved and contained including covenant not to assign the lease or any interest there under without the previous sanction of the Department/Government. And whereas the transferor is now desirous of transferring and assigning the lease to the transferee and the Department has, at the request of the transferor, granted (with the prior approval of the Government) permission to the transferor vide order No. _____ dated _____ to such a transfer and assignment is and containing the terms and conditions hereinafter set-forth.

Now this Deed witnesseth as follows:-

1. In consideration of Rs. _____ paid by the transferee to the transferor the receipt of which the transferor hereby acknowledges, the transferor hereby conveys assigns and transfers into the transferee all the rights and obligations under the said hereinbefore recited lease and to hold the same up to the transferee with effect from _____. For the unexpired period of the said lease.

The transferee hereby covenants with the Department that from and after transfer and assignment of the lease the transferee shall be bound by, and be liable to perform. Observe and conform and be subject to all the provisions of all the covenants, stipulations and conditions contained in said herein before recited lease in the same manner in all respects as if the lease had been granted to the transferee as the lessee there under and he had original, executed it as such.

It is further hereby agreed and declared by the transferor or the one part and the transferee of the other part that:-

- The transferor and the transferee declare that they have ensured that the mineral rights over the area for which the mining lease is being transferred vest to the Department.
- (i) The transferor hereby declares that he has not assigned, subject, mortgaged or in any other manner transferred the mining lease now being transferred and that no other person or persons has any right, title or interest where under in the present mining lease being transferred.
 - (ii) The transferor further declares that he has not entered into or made any agreement, contract or understanding whereby he has been or is being directly or indirectly financed to a substantial extent by or under which the transferor's operation or understanding were or are being substantially controlled by any person or body of persons other than the transferor.
 - (iv) The transferee further declares that he/she has furnished in affidavit along with his application for transfer of the present mining lease specifying therein the amount that he has already taken/proposes to take as consideration from the transferee.
 - (v) The transferee further declares that he is financially capable of and will directly undertake mining operations.

The transferor has supplied to the transferee the original/or certified copies of all plans of abandoned working in the area and in a belt of 6 meters wide surrounding it. The transferor has paid all the rent, royalties and other dues towards Department till this date in respect of this lease:
In Witness whereof the parties hereto have signed on the date and year first above written.

Signed on behalf of the
Governor of J&K State

Signature of the transferor _____ (Designation)

Signature of the transferee _____

Date _____ Witness 1 _____ 2. _____

Government of Jammu & Kashmir
Department of Geology & Mining
FORM (ML7)
See Rule 38(38.3)
Production, Dispatch & Stock Register

S.No	Date	No. of persons employed	Opening stock	Production	Total	Approximate quantity of mineral dispatched
1	2	3	4	5	6	7

Sale price per tonne/grade wise	Approximate stock balance	Actual dispatch	Closing stock	Challan No.	Vehicle No.	Remarks
8	9	10	11	12	13	14

Signature of lessee

Government of Jammu & Kashmir
Department of Geology & Mining
FORM (ML8)

See Rule 38(38.4)

Model Form for Monthly Returns for the month ____ of Year ____

Name and address of the lessee _____

Name of Mine _____ Period of Lease _____

S.No	Opening stock of mineral	Production	Total
1	2	3	4

Purpose	Quantity, dispatched		
	Quantity	Challan No. and Date	Closing balance
5	6	7	8

Average No. of workers	Working days	Quantity of over burden removed	remarks
9	10	11	12

Date:-
Place:-

Signature of lessee/authorized agent/manager

Government of Jammu & Kashmir
Department of Geology & Mining
FORM (ML9)

See Rule 38(38.4)

Annual return to be furnished by the mining lessee

Annual Statement of Minor Minerals obtained, labourer employed, etc. for the Lease Year ending _____ 20____

Name of the lessee _____
Area of the Lease _____
Village _____
Tehsil _____
District _____

Name of the minor mineral	Output	Value	Average no. of persons employed daily		
			Male	Female	Total
1	2	3	4		

Average no. of days worked	No. of accidents	Compensation paid Rs. P	No. of days worked	remarks
5	6	7	8	9

Signature of the minor mineral
concessionary or his authorized agent

Dated: _____

N.B. This return is to be submitted by the 15th of month of each year for the preceding lease year to the:-

- (a) Director Geology & Mining J&K Govt. Jammu/Srinagar.
(b) Officer I/C of the District concerned.

Government of Jammu & Kashmir
Department of Geology & Mining

FORM ML10

MODEL FORM OF MINING LEASE Deed

See Rule 40(40.1)

This Indenture made this day of20..... between the Director on behalf of Governor of the State(hereafter referred to as the 'State Government' which expression shall were the context so admits be deemed to include the successors and assigns) of the one part; and
When the lessee is an individual:-

..... (Name of person with address and occupation) hereinafter referred to as the "the lessee" which expression shall where the context so admits be deemed to include his respective heirs, executors, administrators, representatives and permitted assigns.)

When the lessee are more than one individual:-
..... (Name of person with address and occupation) and(Name of person with address and occupation) be deemed to include his respective heirs, executors, administrators, representatives and their permitted assigns.

WHEREAS the lessee has applied to the Department in accordance with the Minor Mineral Concessions Rules, 2014 (hereafter referred to as the said rules) for the Grant of mining lease of in respect of the lands described in Part I of the schedule here under written and has/have deposited with the Department the sum of Rs. _____/= as security vide CDR No. Dated and the sum of Rs. _____/= vide T R No. _____ dated _____ as application fee for a mining lease.

Whereas mining lease was granted in favour of M/S _____ Vide Order No. _____ of dated _____ read with subject to the conditions laid down in the "aid Order No. _____

IV
WITNESS that in consideration of the rents and the royalties covenants and agreements by and in these presents and the schedule here under written reserved and contained and on the part of the lessee to be paid observed and performed, the Department hereby grants and demises unto lessee. The mineral (hereinafter and in the schedule referred to as the said minerals) situated lying and being in or under the lands which are referred to in Part I of the said schedule, together with liberties, powers, and privileges to be exercised or enjoyed in connection herewith which are mentioned in Part II of the said schedule subject to the restrictions and conditions as to the exercise and enjoyment of such liberties, powers and privileges which are mentioned in part III of the said schedule EXCEPT and reserving out of the demise unto the State Government the liberties, powers and privileges mentioned in _____ part

of the said schedule. To hold the premises hereby granted and demised unto the lessee from day 20 10 for the term of _____ years thence ensuing YIELDING AND PAYING therefore unto the Department the several rents, royalties mentioned in part V of the said schedule at the respective times therein specified subject to the provisions contained in part VI of the said schedule and the lessee hereby covenants with the Department as in Part VI I of the said schedule as expressed and the Department hereby covenants with the lessee as in part VIII of the said schedule as expressed. AND it is hereby mutually agreed between the parties hereto as In part IX of the said is expressed. IN WITNESS WHERE OF these presents have been executed in manner hereunder appearing the day and year first above written.

The schedule above referred to:-

PART I
THE AREA OF THE LEASE

Location and area of the lease

All the tract of lands situated at village Tehsil _____, District _____ falling under Khasra No's _____ containing an area of _____ hectares or thereabouts delineated on plan _____ here' to annexed and bounded as _____ hereinafter referred to as "the said lands"

PART II

Liberties, powers and privileges to be exercised and enjoyed by the 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 times during the term hereby demised to enter upon the said lands and to search for mine, bore, dig, drill or, win, work, dress process convert, carry away and dispose of the said material.

To bring and use machinery equipment etc:-

2. Liberty and power for 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 floors, and other works and convenience of the like nature on or under the said lands.

To make roads and ways etc and use existing roads and ways:-

3. Liberty and power for or in connection with any of the purpose mentioned in this part to make any roads and other ways in or over the said lands and to use maintain and go, and re-pass with or without horses, cattles, wagons, locomotives, or other vehicles over the same on such conditions as may be agreed to.

To get building and road material, etc:-

4. Liberty and power for or in connection with any of the purposes mentioned in this part to quarry and get stone gravel and other building and road material.

To use water from streams etc:-

5. Liberty and power for or in connection with any of the purpose maintained in this part but subject to the right of any existing or future lessees and with the written permission of Deputy Commissioner/Collector to appropriate and use water from any streams water course, springs or other sources in or upon the said lands. Provided that the lessees shall not interfere with the navigation in any navigable stream nor shall divert such stream without the previous written permission of the State Government.

Beneficiation and conveying away of production:-

6. Liberty and power to enter upon and use a sufficient part of the said lands to beneficiate any ore produced from the said lands and to carry away such beneficiated ore.

PART III

Restrictions and conditions as to the liberties, powers and privileges in part II

No buildings etc. upon certain places:-

1. No building or thing shall be erected, set up or placed and no surface operations shall be carried on in upon any public pleasure ground, burning or burial ground or place held sacred by any class of persons or any house or village site, public road or other place which the State Government may determine as public ground nor in such manner as to injure or prejudicially effect any buildings works property or rights of other persons and no land will be used for surface operations which is already occupied by persons other than the State Government for works or purpose not included in this lease, the lessees shall not also interfere with any right of way, well or tank.

Permission for surface operations in a land not already in use:-

2. Before using for surface operations any land which has not already been used for such operations, the lessee shall give to Deputy Commissioner/Collector of the District two calendar months previous notice in writing specifying the name or other description of the situation and the content of the land proposed to be so used and the purpose for which the same is required and the said land shall not be so used if objection is issued by the Deputy Commissioner / Collector within two months after receipt by him of such notice unless the objections so stated shall on reference to the State Government be annulled or waived.

To cut trees in unreserved lands:-

3. The lessees shall not without the previous sanction of the Deputy Commissioner/Collector cut down, or injure any timber or trees on the said lands but may without such sanction clear away any brushwood or undergrowth which interferes with any operations authorized by these presents. The Deputy Commissioner/collector or the State Government may require the lessee to pay for any trees felled and utilized by them at the rate specified by the Deputy Commissioner/Collector of the District.

No mining operations within distances as per Rule,4 of the public works etc:-

4. The lessee shall not work or carry on or allow to be worked or carried on any mining operations at or to any point within a distance of meters from any railway line except with the previous written permission of the railway administration concerned or under or beneath any ropeway or any ropeway trestle or station, except with the previous written permission of the Deputy Commissioner/Collector or any other Officer authorized by the State Government in this behalf and otherwise than in accordance with such instructions, restrictions and conditions either general or special which may be attached to such permission the said distance of meters shall be measured in the case of the railway, reservoir or canal horizontally from the outer toe of the bank or the outer edge of the cutting as the case may be and in case of the building horizontally from the plinth thereof. In the case of village roads no working shall be carried on within the distance of meters of the outer edge of the cutting except with the previous permission of the Deputy Commissioner/Collector or any other Officer duly authorized by the State Government in this behalf and otherwise than in accordance with such directions, restrictions and additions, either general or special, which may be attached to such permission.

Explanation:- For the purpose of the clause the expression 'Railway Administration' shall have the same meaning as it is defined to have in the Indian Railways Act. 1890 by clause (6) of section 3 of that Act. Public roads shall mean a road which has been constructed artificially surfaced as distinct from a tract resulting from repeated use. Village road will include any tract shown in the revenue records as village road.

Facilities for adjoining Government Licenses and leases

5. The lessees shall allow existing and future holders of the Government license or leases over any land which is comprised in or adjoins or is reached by the land held by the lessees reasonable facilities of access thereto:
 PROVIDED THAT no substantial hindrance or interference shall be caused by such holders of Licenses or leases to the operation of the lessee under these present and fair compensations (as may be mutually agreed upon or in the event of disagreement as may be decided by the State Government) shall be made to the lessee for loss or damage sustained by the lessee by reason of the exercise of this liberty.

PART IV

Liberties, Powers and Privileges to the State Government

To work other minerals:-

1. Liberty and power for the State Government, or to any lessee or persons authorized by it in that behalf to enter into and upon the said land and search for, win, work, dig, raise, dress, process, convert and carry away other than the said minerals and any other substances and for those purposes to sink, drive, make, erect, construct, maintain and use such pits, roadways and other works and conveniences and may be deemed necessary or convenient.

To make roads:-

2. Liberty and power for the State Government or any lessee or person authorized by it in that behalf to enter & upon the said lands and to make upon over or through the same any roads or any existing railways and roads and to and re-pass at all times with or without horses, cattle or other animals, carts, wagons, carriages, locomotives, or other vehicles over or along any such road lines and other ways for all purposes and as occasion may require, provided that in the exercise of such liberty and power by such other lessee or person no substantial hindrance or interference shall cause to with the liberties, powers, and privileges of the lessees under these presents and that fair compensation as may be mutually agreed upon or in the event of disagreement and may be decided by the State Government shall be made to the lessee for all loss or damage substantial hindrance or interference shall be caused to or with exercise by such lessee or person of such liberty and power.

PART VRent and Royalties reserved by this leaseTo pay dead rent or royalty whichever is higher:-

1. The lessee shall pay, for every year of the lease, dead rent as specified in the clause 2 of this part:-

To pay royalty for any mineral removed or consumed by him or by his agent, Manager, employee, contractor or sub-lessee from the leased area, he shall be liable to pay either such royalty or the dead rent in respect of that area which ever is higher.

Rate and mode of payment of dead rent:-

2. Subject to provision or clause I of this part, during the subsistence of the lease the lessee shall pay to the State Government annual dead rent for the lands and described in part I of this schedule at the rate of the time being specified in the Third schedule to the Act. In such manner may be specified in this behalf by the State Government.

Rate and mode of payment of royalty:-

3. Subject to the provisions of clause J of this part, the lessee shall during the subsistence of this lease pay to the State Government at such times and in such a manner as the State Government may prescribe royalty ___ in respect of any mineral removed by him/them from the leased area at the rate for the time being specified in the **schedule-I** to the J&K MMCR, 2014.

Payment of surface rent, and water rate:-

4. The lessee shall pay rent and water rate to the state government in respect of all parts of the surface of the said lands which shall from time to time occupied or used by the lessee under the authority of these presents at the rate prevalent with the State Government

respectively per annum per hectare of the area so occupied or used and so in proportion for any area less than a hectare during the period from the commencement of such occupation or used until the area shall cease to be occupied or used and shall as far as possible restore the surface land so used to its original condition. Surface rent and the water rate shall be paid as hereinbefore detailed in clause 2.

Provided that no such rent! water rate shall be payable in respect of the occupation and use of the area comprised in any roads or ways to which the public have full right to access.

PART VI

Provisions relating in the Rents and Royalties

Rent and royalties to be free from deduction etc:-

The rent, water rate and Royalties mentioned in part V of this schedule shall be paid free from any deductions to the State Government at District _____ and such manner as the State government may prescribe.

Provided always and is hereby agreed that Rs. ___/= the balance standing to the credit of the lessee on account of the deposit made by him as a security over an area which included the said lands shall be retained and accepted by the State Government in satisfaction of the rents and royalties mentioned in Part V until they reach that amount.

Mode of computation of royalty:-

2. For the purpose of computing the said royalties the lessee shall keep a correct account of the mineral produced and dispatched. The account as well as the weight of the mineral in stock or in the process of export may be checked by an officer authorized by the Director/ Government.

Course of action if rents and royalties are not paid in time:-

3. Should any royalty or any other sums due to the State Government under the terms and conditions of these presents be not paid by the lessee within the prescribed time the same, together with simple interest due thereon at the rate of 15 %Per annum may be recovered on a certificate of such officer as may be specified by the Department by general or special order, in the same manner as an arrear of land revenue.

PART VII

The Covenants of the Lessee

Lessee to pay rents and royalties, taxes, etc:-

1. The lessee shall pay the rent, water rate and royalties reserved by this lease at such times and in the manner provided in Parts V and VI of these presents and shall also pay and discharge all taxes, rates, assessments and impositions whatsoever brings in nature of public demands which shall from time to time be charged, assessed or imposed by the authority of the Central and State Government upon or in respect of the premises and works of the lessee in common with other premises of a like nature except demand for land revenues.

To maintain and keep boundary marks in good order:-

2. The lessee shall at their own expense erect at all times maintain and keep in repair boundary marks and pillars according to the demarcation to be shown in the plan annexed to this lease. Such marks and pillars shall be sufficiently clear of the shrubs and other obstructions as to allow easy identification.

To indemnify Department against all claims:-

3. The lessee shall make and pay such reasonable satisfaction and compensation as may be assessed by lawful authority in accordance with the law-in-force on the subject for all damage, injury or disturbance which may be done by them in exercise of the powers granted by this lease and shall

indemnify and keep indemnified fully and completely to the State Government/Department 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 expenses in connection therein.

To strengthen and support the mine to necessary extent:-

The lessee shall strengthen and support to the satisfaction of the Railway Administration Concerned or the State Government, as the case may be any part of the mine which in its opinion requires such strengthening or support for the safety of railway reservoir, canal, road and any other public works or structures.

To allow inspection of workings:-

The lessees shall allow any officer authorized by the Director or the State Government in that behalf to enter upon the premises including any building, excavations or land comprised in the lease for the purpose of inspecting, examining, surveying, prospecting and making plans thereof sampling and collecting any data and the lessee shall with proper person employed by the lessee and acquainted with the mines and work effectually assist such officer, agents, servants and workmen in conducting every such inspection and shall afford them all facilities, information connected with the working of the mines which they may reasonably require and also shall and will confirm to and observe all orders and obligation with the Department and State Government as the result of such inspection otherwise may, from time to time, see fit to impose:-

To report accident.-

6. The lessees shall without delay send to the Deputy Commissioner/Collector a report of any accident causing death or serious bodily injury or serious injury to property seriously affecting or endangering life or property which may occur in course of the operations under this lease.

To report discovery of other minerals:-

7. The lessees shall report to the State Government the discovery in the lease area of any mineral not specified in the lease within ___ days of such discovery along with full particulars of the nature and position of each such find. If any mineral not specified in the lease is discovered in the leased area the lessee shall not win and dispose of such mineral unless such mineral is included in the lease or a separate lease is obtained therefore.

To keep the records and accounts regarding production and employees etc:-

8. The 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 book of accounts which shall contain accurate entries showing from time to time:-

- (i). Quantity and quality of the said mineral realized from the said lands.
- (ii). Quantity of various qualities of ores beneficiated or converted
- (iii). Quantities of the various qualities of the said mineral sold and exported separately.
- (iv). Quantities of the various qualities of the said mineral otherwise disposed off and the manner and purpose of such disposal.
- (v). Prices and all other particulars of all sales of said mineral.
- (vi). The number of persons employed in the mines or works or upon the said lands specifying nationality, qualifications and pay of the technical personnel.
- (vii). Such other facts, particulars and circumstances as the Department or State Governments may from time to time require and shall also furnish free of charge to such Officers and at such times as

the Department and State Governments may appoint true and correct abstract of all or such books of accounts and such information and returns to all or any of the matters aforesaid as the State Government may prescribe and shall at all reasonable times allow such Officers as the Department or the State Government shall in, that behalf appoint to enter into and have free access to the said Officers for the purpose of examining and inspecting the said books of accounts, plan and records and to make copies thereof and make extracts there from.

To maintain plans, etc:-

9. The lessee shall at all times during the said term maintain at the mine office correct intelligible up-to-date and complete plans of the sections of mines in the said lands. They shall show all the operations and workings and all the trenches, pits and drillings made by him in the course of operations carried on by him under the lease, faults and other disturbance encountered and geological data and all such plans and sections be amended and filled up by and from actual surveys to be made for that purpose at the end of twelve months. The lessee shall allow any officer of the Department or the State Government, to inspect the same at all reasonable times.
10. (a). The lessee shall pay a wage not less than the minimum wage prescribed by the central or the State Government from time to time.
 (b). The lessee shall comply with provisions of the Mines Act-1952 and the rules made there under.
 (c). The lessee shall take measures for the protection of the environment like planting of trees, reclamation of land, use of pollution-control devices, and such other measures as may be prescribed by the Central or the State governments from time to time at his own expense.
 (d). The lessee shall pay compensation to the occupier of the land on the date and in the manner laid down in these rules.
 (e). The lessee shall in the manner of employment give preference to the tribals and to the persons who becomes displaced because of the taking up of the mining operations.
 Act 67 of 1957:-
11. The lessee shall be bound by such rules as may be issued from time to time, by the Government of India under Section 15 of the Mines and Minerals (Development and Regulation) Act -1957(Act 67 of 1957) and shall not carryon mining or other operations under the said lease in any way other than as prescribed under these rules.
To provide weighing machine:-
12. Unless specifically exempted by the Department/state government the lessee shall provide and at all times keep at or near the pit head or each of the pit heads at which the said minerals shall be brought to book a properly constructed and efficient weighing machine and shall weigh or cause to be weighted thereon all the said minerals, from time to time, brought to bank, sold, exported and converted and also converted products and shall at the close of each day cause the total weights, ascertained by means or the said minerals, ores, products raised, sold, exported and converted during the previous twenty- four hours to be entered in the aforesaid book of accounts.
13. The lessee shall permit, the State Government at all times, during the said term to employ any person or persons to be present at the weighing of the said minerals as aforesaid and to keep accounts thereof and to check the accounts kept by the lessee.
To allow test of weighing machine:-
14. The lessee shall allow any person or persons appointed in that behalf by the state Government at any time or times during the said term to examine and test every weighing machine to be provided and kept as aforesaid and the weights used therewith in order to ascertain whether the same respectively are correct and in good repair and order and if upon any such examination or testing any such weighing machine or weights shall be found incorrect or out of repair or order, the State

Government may require that the same be adjusted, repaired and put in order by and at the expense of the lessee & if such requisition be not complied with within fourteen days after the same shall have been made, the State Government may cause such weighing machines or weights to be adjusted, repaired, and put in order and the expense of so doing shall be paid by the lessee/lessees to the State Government on demand.

To pay the compensation for injury of third parties:-

15. The lessee shall make and pay reasonable satisfaction and compensation for all the damage, injury or disturbance or person or property which may be done by or on the part of lessee in exercise of the liberties and power 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 persons in respect of any such damage, injury or disturbance

Not to obstruct the working of other minerals :-

16. The lessee will exercise the liberties and powers hereby granted in such a manner as to offer no unnecessary or reasonably avoidable obstruction or interruption to the development and working within the said lands of any minerals not included in this lease and shall at all times afford to the Department and State Government and to the holders of the prospecting Licenses or mining leases 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 and across the said lands to such minerals for the purpose of getting working, developing and carrying away the same provided that the lessee shall receive reasonable compensation for any damage or injury, which he may sustain by reason or in consequence of the use or such passage by such lessees or holders of prospecting Licenses.

Transfer of lease:-

16. The lessee shall not without the previous consent in writing of the Department:

(a) Assign, sublet, mortgage, or in any manner, transfer the mining lease, or any right, title or interest therein, or

(b) Enter into or make any arrangement, contract or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or undertakings will or may be substantially controlled by any person or bodies of persons other than the lessee:

17. Provided that the Department shall not give its written consent unless:-

1 (a). The lessee has furnished an affidavit along with his application for transfer of the mining lease specifying therein the amount that he has already taken or proposes to take as consideration from the transferee.

(b). The transfer of the mining lease is to be made to a person or body directly undertaking mining operations.

2 Without prejudice to the above provisions the lessee may, subject to the conditions specified in the proviso to Rule ___ of the said rules, transfer this lease or any right title or interest therein, to a person on payment of RS. ___ to the Department: **Provided that the lessee shall make available to the transferee the original or certified copies of all plans of abandoned workings in the area and in a belt ___ meters wide Surroundings it.**

18. The state Government, may by order in writing determine the lease at any time if the lessee has in the opinion of the Department/State Government,

committed a breach of any of the provisions or has transferred the lease or any right, title or interest therein otherwise in accordance with clause (2):

Provided that no such order shall be made without giving the lessee a reasonable opportunity of stating his case.

Lessee shall deposit any additional amount necessary:-

19. Whenever the security deposit of Rs. _____ /= or any part thereof or any further sum hereafter deposited with the State Government in replenishment thereof shall be forfeited or applied by the Department or State Government pursuant to the power in hereafter declared in that behalf the lessee 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 Department/State Government up to the sum of Rs. _____

Right of pre-emption:-

20. (a) The State Government shall from time to time and all times during the said term have the right (to be exercised by notice in writing to the lessee) of pre-emption of the said minerals (and all products thereof) lying in upon the said lands hereby demised or elsewhere under the control of the lessee and the lessee shall with all possible expedition deliver all minerals or products or minerals purchased by the State Government under the power conferred by this provision in the quantities at the times in manner and at the place specified in the notice exercising the said right.
- (b) In the event of the existence of a state of war or emergency (of which existence and President of India shall be the sole judge and notification to this effect in the Gazette of India shall be conclusive proof), the Department with the consent of the Government shall from time to time and all times during the said term have the right (to be exercised by a notice in writing to the lessee) forthwith take possession and control of the works, plants, machinery and premises of the lessee on or in connection with the said lands or operations under this lease and during such possession or control the lessee shall conform to and obey all directions given by or on behalf of the Department or State Government regarding the use or employment of such works, plants, premises and minerals.

Employment of foreign national:-

21. The lessee shall not employ, in connection with mining operations any person who is not an Indian national except with the previous approval of the State Government.

Recovery of the Expenses incurred by the State Government:-

22. If any of the works or matters which in accordance with the covenants in that behalf herein before contained are to be carried or performed by the lessee be not so carried out or performed within the time specified in that behalf, the Department/State Government may cause the same to be carried out or performed and the lessee shall pay the Department/State Government on demand all expenses which shall be incurred in such carrying out or performance of the same and the decision of the Department/State Government as to such expenses shall be final.

PART VIII

The covenants of the Department/State Government

Lessee may hold and enjoy rights quietly:-

1. The lessee paying the rents, water rates and royalties hereby reserved and observing and performing all the covenants and agreements herein contained

and on the part of the lessee to be observed and performed shall and may quietly hold and enjoy the rights and premises hereby demised for and during the term hereby granted without any lawful interruption from or by the State Government, or any person rightfully claiming under it.

Acquisition of land of third parties and compensation thereof:-

2. If in accordance with the provisions of the clause 4 of part VII of this schedule the lessee shall offer to pay, to an occupier of the surface of any part of the said land compensation for any damage or injury which may arise from the proposed operation of the lessee and the said occupier shall refuse his consent to the exercise of the right and powers reserved to the Department/State Government and demised to be lessee/lessees by the presents and the lessee shall report the matter to the State Government and shall deposit with it the amount offered as compensation and if the Department/State Government is satisfied that the amount of compensation offered is fair and reasonable or if it is not so satisfied and the lessee shall have deposited with it such further amount as the State and Central Government shall consider fair and reasonable the Department/State Government shall order the occupier to allow the lessee to enter the land and to carry out such operations as may be necessary for the purpose of this lease, in assessing the amount of such compensation the Department/State Government shall be guided by the principles of the Land Acquisition Act.

3. To renew:-

The mining lease is renewable in terms of the provisions of the Act. And the rules made there under:

Provided that the Department/State Government may for reasons to be recorded in writing reduce the applied area for If the lease is in respect of the minerals specified in the First Schedule the Act, renewable will be subject to the prior approval of the Department/State Government. If the lessees be desirous of taking a renewed lease of the premises hereby demised or any parts of them for a further term from the expiration of the term hereby granted and is otherwise eligible, they shall prior to expiration of the last mentioned term give to the Department/State Government twenty calendar months previous notice in writing and shall pay the rent, rates and royalties hereby reserved and shall observe and perform the several covenant and agreements herein contained and on the part of the lessee to be observed and performed up to the expiration of the term here by granted, The Department/State Government on receipt of application for renewal. Shall consider it in accordance with the provisions of the act and the rules made there under and shall pass order as it deems fit. If renewal is granted, the Department/State Government will at the expense of the lessee and upon his executing and delivering to the deptt. State Government if required a counterpart thereof execute and deliver to the lessee a Grant of Mining renewed lease of the said premises or part thereof for the further term of _____ years at such rent, rates and royalties and such terms and subject to such covenants and agreements includes this present covenants to renew as shall be in accordance with the Minor Mineral Concession Rules, 2014, applicable to _____ (mineral) on the day next following the expiration of the term hereby granted.

4. Liberty to determine the lease:-

The lessee may at any time determine this lease by giving not less than months notice in writing to the Department/State Government or to such officer or authority as the State

Government may specify in this behalf and upon the expiration of such notice provided that the lessee shall upon such expiration render and pay all rents, water rates, royalties, compensation for damages and other moneys which may then be due and payable under these presents to the lessor or any other person or persons and shall deliver these presents to the Department/State Government then this lease and the said term and the liberties, powers and privileges hereby granted shall absolutely cease and determine but without prejudice to any right or remedy of the lessor in respect of any breach of any of the covenants or agreements contained in these presents ..

1) The Department/State Government may on an applications made by the lessee permit him to surrender one or more minerals from his lease which is for a group of minerals on the ground that deposits of that mineral have since exhausted or depleted to such an extent that it is no longer possible to work the mineral economically, subject to the condition that the lessee:

- (a) Makes an application for such surrender of mineral at least six months before the intended date of surrender, and
- (b) Gives an undertaking that he will not cause any hindrance in the working of the mineral surrendered by any other person who is subsequently granted a mining lease for that mineral.

Refund of security deposits:-

5. On such date as the State Government may elect within months after the determination of this lease or any renewal thereof, the amount of the security deposit paid in respect of this lease and then remaining in deposit with the Department/ State Government and not required to be applied to any of the purposes mentioned in this lease shall be refunded to the lessee. No interest shall run on the security deposit.

PART IX

General Provisions

Obstructions to inspection: -

In case the lessee for his transferee/Assignee does not allow entry or inspection by the Officers authorized by the Department or State Government. The Department/ State Government shall give notice in writing to the lessee requiring him to show cause within such time as may be specified in the notice why the lease should not be determined and his security deposit forfeited: and if the lessee fails to show cause within the aforesaid time to the satisfaction of the Department/State Government, the Department/State Government may determine the lease and forfeit the whole or part of the security deposit.

Penalty in case of default in the payment of royalty and breach of covenants:-

2. If the lessee or his transferee or assignee makes any default in payment of rent or water rate or Royalty required by section 9 of the Act or commits a breach of any of the conditions and covenants other than those referred to in covenant I above, the State Government shall give notice to the lessee requiring him to pay the rent, water rate, royalty or remedy the breach, as the case may be, within ___ days from the date of receipt of the notice and if the rent water rate, and royalty are not paid or the breach is not remedied within such period, the Department/State Government without prejudice to any proceedings that may be taken against him determine the lease and forfeit the whole or part of the security deposit.

Penalty for repeated breaches of covenants:-

3. In case of the repeated breaches of covenants and agreements by the lessee for which notice has been given by the Department/State Government in accordance with clause (1) and (2)

aforementioned on earlier occasion, the Department/State Government without giving any further notice, may impose such penalty not exceeding twice the amount of annual dead rent specified in clause 2 Part V

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

4. Failure on the part of the lessee to fulfill any or the terms and conditions of this lease shall not give the Department or State Government any claim against the lessee or be deemed a breach of this lease in so far as such failure is considered by the said Department/Government to arise from force majeure, and if through force majeure the fulfillment by the lessee of any of the terms and conditions of this lease be delayed the period of such delay shall be added to the period fixed by this lease. In this clause the expression "Force Majeure" means act of God, war, insurrection, riot, civil commotion, strike, earthquake, tide, storm, tidal wave, flood, lightning, explosion, fire and any other happening which the lessee could not reasonably prevent or control.

Lessee to remove his properties on the expiry of lease:-

5. The lessee having first paid discharged rents, rates and royalties payable by virtue of these presents may at the expiration or sooner determination of said term or within ___ months thereafter (unless the lease shall be determined under clauses 1 and 2 of this part and in that case at any time not less than ___ months not more than ___ months after such determination) take down or remove for his own benefit, set up or placed by the lessee in or upon the said lands and which the lessee is not bound to deliver to the Department/State Government under clause 20 of Part VII of this schedule and which the Department/State Government shall not desire to purchase.

Forfeiture of property left after determination of leases:-

6. If at the end of six calendar months after the expiration or sooner determination of the said term under the provision contained in clause 4 of Part VII of this schedule become effective there shall remain in or upon the said land any [ore or mineral] engines, machinery, plant, building structure and other work, erections and conveniences or other property which are not required by the lessee in connection with operations in any other lands hold by him under mining lease the same shall if not removed by the lessee within ___ month after notice in writing requiring their removal has been given to the lessee by the Department/State Government be deemed to become the property of the Department/State Government and may be sold or disposed of in such a manner as the Department/State Government shall deem fit without liability to pay any compensation or to account to the lessee in respect thereof

IN WITNESS WHEREOF these presents have been executed in the manner hereunder appearing the day.

lessee

Director.
Geology & Mining Department.
J&K Government.
(on behalf of Governor of J&K State)

Witness

Witness:

Government of Jammu & Kashmir
Department of Geology & Mining
Form QLI

See Rule-46(i)
Application for grant/renewal of Quarry license.

To
The _____
Department of Geology & Mining.

Sir,

1 / We request you to grant/renew me/us quarry license for mineral _____ over plot No. _____ in area _____ for a period of 05 years under the Jammu and Kashmir Minor Mineral Concession, Rules, 2014.

2. I / We have deposited Rs. _____ as the application fee payable vide demand Daft / Treasury Challan No. _____ Receipt No. _____ dated: _____

3. Following are the required particulars;

A. In case the applicant is an individual.

- a. Name of applicant : _____
b. Fathers/Husbands name : _____
c. Occupation : _____
d. Nationality : _____
e. Permanent Address : _____

B. In case the applicant is Firm/ Company/ Association/ Society:

- a. Kind of business : _____
b. Place of business : _____
c. Place of Registration: _____
d. Residency of Director's/Partner's: _____

N.B:

Please enclose copies of certificate of Firm's registration, partnership deed, power of attorney, Certificate of incorporation, Memorandum of Articles and Articles of Association and Directors about applying for quarry license.

Details of the applicant in Jammu and Kashmir in respect of other mineral concessions already held

S No.	Name of Division	Mineral for which lease is held.	Extent of area held (Give plot No's of Quarry license)	Period of Lease/Quarry License.		Location of Lease/Quarry license.
				From	To	

1	2	3	4	5	6	7
---	---	---	---	---	---	---

4. Details of Lease/License applied for simultaneously:

- a. _____
- b. _____
- c. _____

5. Are you intending to setup a mineral based Industry In tile area using this mineral as raw material (if so give particulars of the same)

I / We declare that particulars given above are correct and I / We will furnish any other details required in this connection on demand.

Yours faithfully,

Place: _____
Date: _____

Name: _____
Present Address: _____

Government of Jammu and Kashmir
Department of Geology and Mining

FORM QL2
PROFORMA OF QUARRY LICENSE
See Rule 48(ii)

- 1. Quarry License No _____ 2. Valid Upto _____
- 3. Name of Licensee _____
- 4. Father's Name/ Husband's Name _____
- 5. Address _____
Name of block in which quarry license has been granted
Village _____
Tehsil _____
Distt. _____
- 7. Plot/Survey No. _____

Authorized Signatory

Details about payment of license fee and period of subsequent renewals

S. No	Amount deposited	Challan/Cash Receipt No.	Date of Deposits	Period of Renewal	of Authorized Signatory
1	2	3	4	5	6

Government of Jammu and Kashmir
Department of Geology and Mining
FORM QL3
Authorization for lifting of Mineral
See Rule 50(50.1)

Paste
Photograph

1. Quarry License No. _____ 2. Valid Upto _____
 3. Name of Licensee _____
 4. Father's Name/ Husband's Name _____
 5. Address _____
 6. Name of plot/area in which quarry License has been granted _____
 7. Village _____
 Tehsil _____
 Distt. _____
 7. Plot/Survey No. _____
 8. Name of the Mineral _____
 9. Quantity(MT) _____
 10. Period _____
 11. Royalty paid _____
 12. G.R. No.: _____
 13. Challans issued _____ Date: - _____

No
Date

Authorized Signatory

Government of Jammu & Kashmir

Department of Geology & Mining

FORM STP1

(to be submitted in triplicate)

Model Form of Application for Short Term Permit

See Rule 58(58.1)

1. Name of the applicant:
2. Address:
3. Location of the quarry
4. Survey No.
5. Village, Tehsil and District):
6. Quantity of the Minor Mineral proposed to be extracted/lifted:
7. Payment Particulars
 - (a) Challan No., date & amount:
 - (b) Name of the Treasury:
8. Route and Mode of Transportation:
9. Purpose of extraction/lifting of Minor Mineral (Own consumption or sale in case of sale, the name and address of the purchaser should be furnished):
10. Loading point.
11. Destination of the Consignment with the name and address of the consignee.
12. Basic value of the minor mineral at pit head.
13. Date within which the applicant desires to extract/lift the quantity (the period should not exceed 30 days):
13. Other particulars which the applicant wishes to furnish in support of his application.

I/We hereby certify that the particulars given above are correct and to the best of my knowledge and belief.

Signature of applicant

Place:

Date:

Government of Jammu & Kashmir

Department of Geology & Mining

FORM STP2

Model Form for quarry permit

See Rule 59

Permit No.

Dated.....

Permit is hereby granted to..... To extract/lift..... tonnes of..... (Name of Minor Mineral) from the area/plot situated at _____ in Survey No..... of village..... Tehsil _____ and District _____ in consideration of payment of a sum of Rs..... being the Royalty on the said quantity and application fee, subject to the conditions as laid down in Rule, 62

Issuing Authority

Government of Jammu and Kashmir
Department of Geology & Mining
FORM RC1

See Rule 44(44.1)

Agreement for Royalty Collection Contract

THIS INDENTURE made this _____ day of _____ 20 between the Governor of the State of Jammu and Kashmir (hereinafter referred to as the "State Government" which expression shall where the context so admits be deemed to include the successors and assignees) of the one part and Sh. _____ S/o _____ (hereinafter referred as the "the Contractor" which expression shall where the context so admits be deemed to include his legal heirs, representatives and permitted assignees) of the other part.

WHEREAS the Contractor has offered a Bid of Rs. _____ (herein after referred to as the said Bid) for award of Royalty Collection Contract for Minor Mineral Block/Stone Quarry Belt _____ (hereinafter referred to as Block/Belt) to the State Government in accordance with the J&K Minor Mineral Concessions Rules, 2012 (hereafter referred to as the said rules).

WHEREAS said Bid has been accepted by Competent Authority and Contractor has paid an amount of Rs. _____ in full in shape of COR/FOR/DO pledged to Authorized officer with the condition that the Contractor shall charge Royalty as per the rates specified in the Schedule-I to the said Rules.

WHEREAS the Contractor has paid a Security of Rs. _____ in the form of CDR/FDR/DD pledged to Director, Geology & Mining for the fulfillment of the terms and conditions of NIT & covenants of Royalty Collection Contract.

Now these presents Witness as follows:-

- 01) The State Govt. hereby grants to the contractor, authority to collect Royalty as per the Schedule - I of said rules for the Minor Minerals dispatched from the Minor Mineral Block/Belt _____
- 02) The Agreement shall remain in force from _____ to _____
 - a) The contractor shall collect the Royalty against the dispatches of the mineral made by the licensee/lessee/permit holder at the exit points of the mineral block under his control.
 - b) The contractor shall issue printed receipts authenticated by the Department for the amount of Royalty collected for every dispatch of the Minor Mineral and shall record time and date or dispatch on the receipt and shall retain a counter file with him. The contractor shall maintain daily records or such dispatches/ supplies, which shall be open to inspection of any Competent Authority and shall submit monthly returns of minor mineral dispatched from the Block/Belt upto 14th or succeeding month. In case of violation, penalty @ Rs. _____ for each day or such amount as deemed appropriate by Competent Authority for the default committed by the Contractor.
 - c) In case the Minor Mineral is used for works or National Highway. Railway MPGSY Beacons, NHPC, HCC, JKSPDC & Mugal Road Contractor shall not charge any royalty from such concerns.
 - d) The Contractor shall not transfer the contract as a whole or in part and shall not grant any Sub- Contract to or in the name of any other person unless approved by Competent Authority.

- e) The Contractor shall not have any other right regarding Block/Belt except realization of loyalty at the Scheduled rates on behalf of the State Government.
- f) The Contractor shall abide by the orders and instructions issued by the State Government or any Officer of the Department of Geology & Mining in accordance with the provisions of the said rules.
- g) The contractor will not allow any unlawful extraction from the block under his control and will intimate in writing to the department regarding the same if observed.
- h) In case of default in the due observance of the terms and conditions of the Contract, the Contract may be terminated by Competent Authority by giving 10 days notice with forfeiture of Security deposit.
- i) The Contractor shall make his own arrangements for collection of Royalty and State Government shall not be responsible for refusal of payment of Royalty to him. But if a complaint is made by him in this respect, the same may be considered for taking action under said rules.
- j) The Contract may be terminated by the State Government, if considered by it to be in Public interest, by giving ___ days notice.
- k) The Security deposited for due observance of the Contract shall be refundable after the expiry of the contract or earlier determination in Public interest.
- l) The Contractor shall have to abide by rules and regulations of the Forest, Wild life, Fisheries, Tourism and Flood control Departments during the period of Contract.
- m) The Contractor shall have to deposit Income Tax of the said Bid towards Income Tax Department, as per Income Tax Act, 1961.

In Witness where of parties have appended their signatures to these presents.

Director.
Geology & Mining
J&K Govt. Jammu.
(Signed on behalf of
the Governor of J&K
State)

Signature of the
Royalty Collection Contractor

Witness:-

1.

Witness:-

2.

National Green Tribunal

Junaid Ayubi vs State Of Haryana on 28 May, 2024

Item No. 1A	Court No. 1
BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW DELHI	
Appeal No. 19/2022	
Junaid Ayubi & Ors.	Appellant(s)
Versus	
State of Haryana & Ors.	Respondent(s)
Date of reserve of order: 14.02.2024 Date of pronouncement of order: 28.05.2024	
CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER	
Appellant(s):	Mr. Ajit Sharma & Mr. Kanchal Kumar, Adv. for Appellant.
Respondent(s):	Mr. Rahul Khurana, Adv. for R-1 to 4 with Mr. Sandeep Kumar, Assistant, SEIAA, Haryana, Mr. Om Dutt, Mining Officer, Yamuna Nagar & Mr. Aman, Mining Inspector. Mr. Nidhesh Gupta, Senior Advocate with Mr. Mohd. Fuzail Khan, Mr. Mangla & Mr. Ekansh Chaturvedi, Advs. for Project Proponent.
ORDER	

1. In this appeal filed under section 16 read with section 18 of the National Green Tribunal Act, 2010 (hereinafter referred to as the "NGT Act") appellant has challenged the Environmental Clearance (EC) dated 29.01.2022 issued in favour of the respondent no. 5 (project proponent) for river bed sand mining in river Yamuna at village Jairampur Jagiri, Tehsil Jagadhri, District Yamuna Nagar, Haryana.

2. The submission of learned Counsel for the appellant is that the EC has been granted for mining of boulder, gravel and sand and the EC contains the condition to carry out the replenishment study after starting the project which is not permissible. He submits that this issue is already covered by the order of the Tribunal dated 11.03.2022 passed in Appeal No. 23/2021, Pramod v. State of Uttar Pradesh & Ors. He also submits that the auction was only for sand but EC has been granted for boulder, gravel and sand. His further submission is that the lease has been executed for ten years for a larger area than the one for which the auction was held and EC was granted.

3. Learned senior counsel for the respondent no. 5/Project Proponent (PP), has submitted that the EC is only for sand mining and due to the typographical error on the first page of the EC, boulder and gravel has been mentioned. He submits that in the order of Supreme Court dated 31.10.2023 passed in Civil Appeal No. 5194/2022, all the pleas have been left open. Further submission is that when the mining is done after a long time for the first time, replenishment study for the first year is not necessary and for the subsequent year the replenishment study has been done. He has placed reliance upon the mining plan and the District Survey Report (DSR). He has also referred to page 114 of the compilation and has submitted that the procedure prescribed in Enforcement & Monitoring Guidelines for Sand Mining, 2020 (hereinafter referred to as the "guidelines of 2020") was not contemplated when the DSR was prepared in 2017.

4. Learned counsel appearing for the State of Haryana has submitted that the EC was initially issued for one year without conducting replenishment study and for the subsequent years the EC has been issued based upon the replenishment study. He has submitted that e- auction was held on 05.11.2015 and 06.11.2015, the Lol was issued on 30.11.2015, EC was granted in the year 2022 and the mining was done from 01.05.2022 till 30.05.2022.

5. We have heard the learned counsel for the parties and perused the records.

6. In this appeal, Tribunal on 24.05.2022 had passed an interim order restraining the respondent no. 5/PP from undertaking mining in pursuance to the impugned EC pending further consideration of the appeal. This order was subject matter of challenge before the Hon'ble Supreme Court at the instance of PP in Civil Appeal No. 5194/2022 wherein interim order was passed by Hon'ble Supreme Court on 22.08.2022 to the following effect:

"Applications seeking exemption from filing C/C of the impugned judgment and permission to file additional documents/facts/ annexures are allowed.

Admit.

Learned counsel for the appellant contends that the mine in question has not been mined since 2010 and thus unless mining takes place there cannot be a replenishment study. He further submits that on account of observations made in paragraph 9 of the impugned order even show cause notice has been issued for cancellation by SEIAA, Haryana.

Issue notice, which is accepted by learned counsel for respondent Nos. 3 to 6.

Respondent Nos.7 to 9 are stated to be not required to be served as they were partners with the petitioner and have no lis antagonistic towards the petitioner. Application was filed only by respondent Nos.1 & 2.

In the meantime, proceedings pursuant to the impugned order initiated by the State are stayed.

List on 30th September, 2022."

7. The above civil appeal has been disposed of by Hon'ble Supreme Court by order dated 31.10.2023 as under:-

"Learned counsel for the respondents submits that the appellant has approached this Court at an interim stage while the main matter is still pending before the Tribunal. He submits before the Court that all pleas of the appellant qua the replenishment study and a manner of conduct thereof can be raised before the Tribunal itself while maintaining the interim order already granted by this Court.

The aforesaid is accepted by learned counsel for the appellant.

We are of the view that the impugned order being interim in character, it is appropriate that in view of the appellant being protected by an interim order passed by this Court, the NGT should look at the whole issue, uninfluenced by the impugned order.

Needless to say that any other contentions which the parties seek to advance before the NGT will also be available to the parties. We are informed that the next date is 29.01.2024. It is upto the NGT to consider the matter as early as feasible as learned counsel for the appellant states that it will also be seeking an early hearing.

The appeal stands disposed of."

8. In view of the above order, the Tribunal is considering all the issues without being influenced by any observation made in the interim order dated 24.05.2022.

9. The first ground of challenge in the appeal is that the auction was for sand mining only and SEAC had only considered sand in the minutes but the EC has been granted for boulder, gravel and sand.

10. The impugned EC dated 29.01.2022, in the subject clause, states that "EC for proposed mining of boulder, gravel and sand". Subject clause of the EC reads as under:-

"EC for proposed mining of Boulder, Gravel and Sand (Minor Mineral) at Jairampur Block YNR/B-6 (ML area-33.85 Ha.) Village-Jairampur Jagiri, Tehsil-Jagadhari, District-Yamuna Nagar, Haryana by M/s. Balaji Infra."

[emphasis supplied]

11. The EC was for one year under category B1, I(a) of EIA Notification dated 14.09.2006.

12. The specific condition number 9 of EC, which is relevant here, reads as under:-

"9. The PP agrees and submitted the undertaking that no Boulder, gravel shall be mined in the mining lease area."

13. On the reading of the EC dated 29.01.2022 as a whole, the mentioning of "boulder, gravel" in the subject clause of EC is found to be a mistake and typographical error. The special condition number 9 mentions that the PP had submitted an undertaking that no boulder and gravel will be mined in the mining lease area. The specific stand of the counsel of the PP is that no mining of boulder and gravel has been done by the PP on the basis of the impugned EC.

14. The next ground of challenge is that the EC was granted for an area of 33.85 hectares but the ten years lease has been granted for an area of 33.58 hectares. We find that there is a typographical error in the lease deed because at one place 33.58 hectares is mentioned whereas at another page 33.85 hectares is mentioned. Hence, no substance is found in the argument.

15. The next issue relates to replenishment study. According to the appellant, replenishment study is mandatory condition for grant of EC whereas, according to respondent no. 5/PP, the replenishment study has been done as per the condition of the EC within one year and that for the first year no replenishment study is required.

16. The river bed mining has serious effect on the ecology of the river. Hon'ble Supreme Court in this regard in the matter of Deepak Kumar & Ors. v. State of Haryana & Ors., reported in (2012) 4 SCC 629 has observed as under:-

"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..

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.

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 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 breaches 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.

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."

17. The plea of the PP is that the mining remained closed since 01.03.2010 and thereafter the mining lease was granted in the year 2022, therefore, replenishment study was not required.

18. In the present case, EC has been issued on 29.01.2022 and on the date of issuance of the EC, the guidelines of 2020 had come in force. The relevant considerations which are to be kept in mind for sand/gravel mining while approving the mining plan are reflected in clause 4.3 of the guidelines of 2020 and in terms of clause 4.3(b), the distance between sites for sand and gravel mining depends on the replenishment rate of the river clause 4.3 reads as under:-

"Following considerations shall be kept in mind for sand/gravel mining while approving mining plan:

- a) Parts of the river reach that experience deposition or aggradation shall be identified. The Leaseholder/ Environmental Clearance holder may be allowed to extract the sand and gravel deposit in these locations to manage aggradation problem.
- b) The distance between sites for sand and gravel mining shall depend on the replenishment rate of the river. Sediment rating curve for the potential sites shall be developed and checked against the extracted volumes of sand and gravel.
- c) Sand and gravel may be extracted across the entire active channel during the dry season.
- d) Abandoned stream channels on the terrace and inactive floodplains be preferred rather than active channels and their deltas and flood plains. The stream should not be diverted to form the inactive channel.
- e) Layers of sand and gravel which could be removed from the river bed shall depend on the width of the river and replenishment rate of the river.
- f) Sand and gravel shall not be allowed to be extracted where erosion may occur, such as at the concave bank.
- g) Segments of the braided river system should be used preferably falling within the lateral migration area of the river regime that enhances the feasibility of sediment replenishment....."

19. Clause 4 of the guidelines of 2020 deals with Requirements for Monitoring & Enforcement and its relevant sub-clauses are as under:-

XXX.....XXX.....XXX

ii) The mining lease auctioned by State government as per their Minor Mineral Concession Rules are granted of Letter of Intent (LoI), but it has been observed that many of the sites are not suitable w.r.t environmental aspects. In most of the cases, the unplanned grant of mining lease leads to formation of cluster and/or contiguous cluster of small mining leases which sometimes is difficult to regulate and monitor. In order to address such issues, more emphasis is required on the preparation of District Survey Report and its format for reporting.

XXX.....XXX.....XXX

iv) There is no practice for regular replenishment study to ascertain the rate of depositing, plan and section needs to be prepared based on the restrictions provided in letter of intent and provisions of Sustainable Sand Mining Management Guidelines 2016.

XXX.....XXX.....XXX

viii) The river reaches with sand provide the resource and thus it is necessary to ascertain the rate of replenishment of the mineral. Regular replenishment study needs to be carried out to keep a balance between deposition and extraction. This document provides the procedure to be followed for conducting replenishment study.

XXX.....XXX.....XXX

4.1.1 Preparation of District Survey Report.

"Sustainable Sand Mining Guidelines, 2016" issued by MoEF&CC requires preparation of District Survey Report (DSR), which is an important initial step before grant of mining lease/LoI. The guidelines emphasize detailed procedure to be followed for the purpose of identification of areas of aggradation/ deposition where mining can be allowed and identification of areas of erosion and proximity to infrastructural structures and installation where mining should be prohibited. Calculation of annual rate of replenishment, allowing time for replenishment after mining, identification of ways of scientific and systematic

mining: identifying measures for protection of environment and ecology and determining measures for protection of bank erosion, benchmark (BM) with respect to mean Sea Level (MSL) should be made essential in mining channel reaches (MCR) below which no mining shall be allowed.

XXX.....XXX.....XXX

Therefore, preparation of District Survey Report is a very important step and sustainable sand mining in any part of the country will depend on the quality of District Survey Report.

XXX.....XXX.....XXX

a) District Survey Report for sand mining shall be prepared before the auction/e-auction/grant of the mining lease/Letter of Intent (LoI) by Mining department or department dealing the mining activity in respective states...."

20. Clause 5 deals with replenishment study and provides as under:-

"5.0 REPLENISHMENT STUDY The need for replenishment study for river bed sand is required in order to nullify the adverse impacts arising due to excessing sand extraction. Mining within or near riverbed has a direct impact on the stream's physical characteristics, such as channel geometry, bed elevation, substratum composition and stability, in-stream roughness of the bed, flow velocity, discharge capacity, sediment transport capacity, turbidity, temperature etc. Alteration or modification of the above attributes may cause an impact on the ecological equilibrium of the riverine regime, disturbance in channel configuration and flow-paths. This may also cause an adverse impact on instream biota and riparian habitats. It is assumed that the riparian habitat disturbance is minimum if the replenishment is equal to excavation for a given stretch. Therefore, to minimize the adverse impact arising out of sand mining in a given river stretch, it is imperative to have a study of replenishment of material during the defined period."

[emphasis supplied]

21. As per clause 6.1, the mining operation is required to be strictly carried out in accordance with the approved mining plan.

Clause 6.1 reads as under:-

"6.1 Mining Operation:

The mining operations should be strictly carried out in accordance with the approved mining plan and after complying with all the conditions stipulated in Environmental & Other Statutory Clearance. Mine owner shall follow the operational procedure (for sale, dispatch, storage, reserve reconciliation and transportation) as may be defined by the concerned state government in its monitoring guidelines. Mine owner should comply with the recommendation and suggestion made by the High-Power Committee as applicable."

22. Clause 8.1 of the guidelines of 2020 relates to pre-requisite for starting sand mining operation. Sub-clause (i) necessitates preparation of a comprehensive mining plan and prohibits mining in the area which has not been identified in the comprehensive mining plan of the district. Sub-clause (ii) requires conducting replenishment study on the regular basis. In terms of clause 4.3, the details of replenishment study conducted for all the years needs to be included at the time of review of the mining plan.

A cogent reading of above clauses of 2020 guidelines reveal that replenishment study is necessary for grant of EC for sand mining.

23. It is worth nothing that the provision in this regard was not very different in Sustainable Sand Mining Management Guidelines, 2016 (hereinafter referred to as the "guidelines of 2016"), which provide that:-

"GENERAL APPROACH TO SUSTAINABLE SAND AND GRAVEL MINING
Following considerations should be kept in mind for sand/gravel mining:

- a) Parts of the river reach that experience deposition or aggradation shall be identified first. The Lease holder/ Environmental Clearance holder may be allowed to extract the sand and gravel deposit in these locations to manage aggradation problem.
- b) The distance between sites for sand and gravel mining shall depend on the replenishment rate of the river. Sediment rating curve for the potential sites shall be developed and checked against the extracted volumes of sand and gravel.
- c) Sand and gravel may be extracted across the entire active channel during the dry season.
- d) Abandoned stream channels on terrace and inactive floodplains be preferred rather than active channels and their deltas and flood plains. Stream should not be diverted to form inactive channel.
- e) Layers of sand and gravel which could be removed from the river bed shall depend on the width of the river and replenishment rate of the river.
- f) Sand and gravel shall not be allowed to be extracted where erosion may occur, such as at the concave bank.
- g) Segments of braided river system should be used preferably falling within the lateral migration area of the river regime that enhances the feasibility of sediment replenishment.

xxx.....xxx.....xxx Management Plan

1. River Bed Mining Recommendations:

- a) Permit Mining Volume Based on Measured Annual Replenishment In the first year following adoption of the management plan, a volume equal to the estimated annual replenishment could be extracted from the reach of channel. Replenishment (up to the elevation of the selected channel configuration) would need to occur before subsequent extraction could take place. The concept of annual replenishment accounts for the episodic nature of sediment transport. For example, during wet periods with high stream flows, and a high contribution of sediment from hill slopes and tributaries, monitoring data would show that sand and gravel bars are replenished quickly. During drought periods with low stream flow, and little sediment supply or transport, monitoring data would likely show that bars were replenished at a slower rate.

The use of monitoring data is essential in measuring when actual replenishment occurs. The use of the concept of annual replenishment protects long-term channel stability as well as aquatic and riparian habitat by extracting a volume sustainable by watershed processes.

xxx.....xxx.....xxx Relevant extract of
Standard Environment Condition for Sand Mining

Impact Category S. Environmental Conditions No. Sustainable Mining 8. District level Survey Report should be Practices prepared and area suitable for mining and area prohibited for mining be identified. "

24. The guidelines of 2016 mentions relevant points for consideration for selective sand mining site are as under:-

"The following points to be considered while selecting the river/stream for mining besides the above parameters:

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i) A stable river is able to constantly transport the flow of sediments produced by watershed such that its dimensions (width and depth) pattern and vertical profile are maintained without aggrading (building up) or degrading (scouring down).

ii) The amount of boulders, cobbles, pebbles, and sand deposited in river bed equals to the amount delivered to the river from catchment area and from bank erosion minus amount transported downstream each year.

iii) It is compulsive nature of river to meander in their beds and therefore they will have to be provided with adequate corridor for meandering without hindrance. Any attempt to diminish the width of the corridor (floodway) and curb the freedom to meander would prove counterproductive.

iv) Erosion and deposition is law of nature. The river stream has to complete its geomorphological cycles from youth, mature old age.

v) River capturing is unavoidable.

vi) Fundamentally the lowest point of any stream is fixed by sea level.

This survey document should be prepared in the district based on direct and indirect benefits of mining and identification of the potential threats to the river/stream beds in the district.

Besides, calculating the carrying capacity of the river/stream beds/other sources to find out maximum quantity available to be allowed for removal each year from the sources, it should also provide various measures to regulate sand and aggregate mining in a systemic way.

It has to provide for environmentally safe depth of mining and safeguards of banks by prescribing safe distance from banks. It is required that there should be a Sub-Divisional Committee which should visit each site and make recommendation. The Committee should comprise of Sub-Divisional Magistrate, Officers from Irrigation department, State Pollution Control Board or Committee, Forest department, Geology or mining officer shall visit each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof."

25. In terms of the above also, calculation of annual rates of replenishment and allowing time for replenishment after mining in area is relevant. In respect of the river bed mining it has been clearly provided in 2016 guidelines that:-

"1. River Bed Mining Recommendations:

a) Permit Mining Volume Based on Measured Annual Replenishment In the first year following adoption of the management plan, a volume equal to the estimated annual replenishment could be extracted from the reach of channel. Replenishment (up to the elevation of the selected channel configuration) would need to occur before subsequent extraction could take place. The concept of annual replenishment accounts for the episodic nature of sediment transport. For example, during wet periods with high stream flows, and a high contribution of sediment from hill slopes and tributaries, monitoring data would show that sand and gravel bars are replenished quickly.

During drought periods with low stream flow, and little sediment supply or transport, monitoring data would likely show that bars were replenished at a slower rate. The use of monitoring data is essential in measuring when actual replenishment occurs. The use of the

concept of annual replenishment protects long-term channel stability as well as aquatic and riparian habitat by extracting a volume sustainable by watershed processes."

26. As per the above, even in the first year a volume equal to estimated annual replenishment could be extracted. The standard environmental condition for sand mining in the year 2016 contained the clause of submission of annual replenishment report as under:-

"11. To submit annual replenishment report certified by an authorized agency. In case the replenishment is lower than the approved rate of production, then the mining activity/production levels shall be decreased/stopped accordingly till the replenishment is completed."

27. The guidelines of 2016 states the effect of sand and gravel mining in excess of the replenishment to the following as under:-

"a) Extracting gravel from an excavation that does not penetrate the water table and is located away from an active stream channel should cause little or no change to the natural hydrological processes unless the stream captures the pit during periods of flooding.

b) In-stream extraction of gravel from below the water level of a stream generally causes more changes to the natural hydrologic processes than limiting extraction to a reference point above the water level."

Hence, the sand mining in the riverbed without replenishment study cannot be permitted.

28. In the matter of Pramod v. State of Uttar Pradesh & Ors. order dated 11.03.2022 passed in Appeal 23/2021 the EC for sand, bajri and boulder mining from river bed of river Yamuna was challenged on the main ground that no replenishment study was conducted before grant of EC. The Tribunal vide order dated 11.03.2022 passed in Appeal No. 23/2021 held that:

"4. In pursuance of above, the response has been filed by SEIAA, UP as well as Respondent No. 11 - PP. The stand of SEIAA, UP filed on 10.03.2022 acknowledges that no replenishment study has been undertaken even though this aspect was considered while granting EC. Once there was no replenishment study there could not be EC as per Sand Mining Guidelines, 2020 issued by the MoEF&CC under the Environment (Protection) Act, 1986. Relevant extract from the response of the SEIAA is reproduced below:-

"8. Subsequently, the case was considered in 482th SEIAA Meeting 12.08.2021 wherein, SEIAA agreed with the recommendation of the SEAC meeting dated 09.07.2021 to grant EC along with all the general and specific conditions to the title proposal, It become necessary to mention here that SEIAA also stipulated the following specific conditions:

1. DSR lacks in replenishment study thus SEIAA decided to grant EC for a period of one year only. Project proponentt should submit replenishment study, duly approved by the competent authority, for extension of EC beyond one year.

2. Directions/suggestions given during public hearing and commitment made by the project proponent should be strictly complied.

3. A certificate from Forest Department shall be obtained that no forest land is involved and if forest land is involved the project proponent shall obtain the forest clearance and permission of Central and State Government as per law under the provisions of Forest (conservation) Act, 1980 and submit before the start of work.

4. The mining lease holders shall, after ceasing mining operations, undertake re-grassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora fauna etc.

5. Three tier green shelter belt of 7.5m width should be developed on the periphery of mine lease area. Local and native species should be planted in consultation with Forest/Horticulture Department/ Agriculture University.

6. If the proposed project is situated in notified area of ground water extraction, where creation of new wells for ground water extraction is not allowed, requirement of fresh water shall be met from alternate water sources other than ground water or legally valid source and permission from the competent authority shall be obtained to use it.

Concerned copy of minutes, dated: 12.08.2021 is being filed herewith and marked as Annexure no. 05.

9. Further, SEIAA, vide letter no. 193/Parya/SEIAA/6266- 5850/2021 dated: 17.09.2021 issued Environment Clearance for the proposed project. Concerned copy of Environment Clearance letter, dated: 17.09.2021 is being filed herewith and marked as Annexure No. 06."

....

6. From the above it remains undisputed that EC has been granted without replenishment study which is sought to be defended that the same is only for one year to be extended only if replenishment study is completed before that.

7. Learned counsel for the PP instead of focusing on the point of effect of absence of replenishment study, which is mandatory under norms, sought to argue on locus and bonafides of the appellant which are not relevant in view of patent illegality in EC granted in favour of PP.

8. Accordingly, the impugned EC will stand quashed without prejudice to fresh EC being granted after following due process of law. The mining already conducted is illegal and consequences of such illegality may be appropriately determined and enforced by the SEIAA, UP and State PCB, after hearing the PP, within one month from today."

[emphasis supplied]

29. In another matter Pramod v. State of Uttar Pradesh & Ors., OA No. 90/2020 the same issue of allowing mining without conducting replenishment study came up before the Tribunal and the Tribunal by order dated 06.04.2021 had directed the replenishment study to be conducted by the State within three months and had allowed further amendment consistent with the replenishment study. The Tribunal in that order had considered the earlier order of the Tribunal wherein it was held that the replenishment study was required even de hors the guidelines by noting as under:-

"2. The matter was last considered on 17.08.2020 in the light of report of the joint Committee comprising District Magistrate, Saharanpur and SEIAA, U.P. dated 13.07.2020 to the effect that since mining leases were granted prior to 2020 Guidelines, no replenishment study was carried out. The Tribunal directed that irrespective of the date of grant of mining leases, the replenishment study was essential for sustainable development and to give effect to the Precautionary Principle. Accordingly a fresh action taken report was sought. The operative part of the order is reproduced below:-

"1&2.....XXX.....XXX.....XXX

3. Accordingly, a report has been filed on 13.07.2020 to the effect that leases were granted prior to the Sustainable Sand Mining Guidelines, 2020. However, the fact remains that the replenishment study is required even de hors the said Guidelines, the objections of the applicant may be responded to by the Department. The applicant is at liberty to file a fresh representation before the District Magistrate, Saharanpur and SEIAA, U.P. within one week from today with reference to the report filed on 13.7.2020.

1244

4. Let a fresh report be furnished by the District Magistrate, Saharanpur and SEIAA, U.P., dealing with the objections of the applicant, before the next by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF."

[emphasis supplied]

30. From the above guidelines and judgment of the Tribunal, it is clear that the replenishment study is necessary for granting the sand mining lease, therefore, sand mining in the riverbed without replenishment study cannot be permitted.

31. In the present case, the EC was issued to the respondent no. 5 for riverbed sand mining without any replenishment study, therefore, the said EC dated 29.01.2022 was bad in law. But at this stage, no interference in the said EC is required because the initial period of one year is over and replenishment study has been done for the subsequent year and for the first year the applicant was protected by the interim order of the Hon'ble Supreme Court.

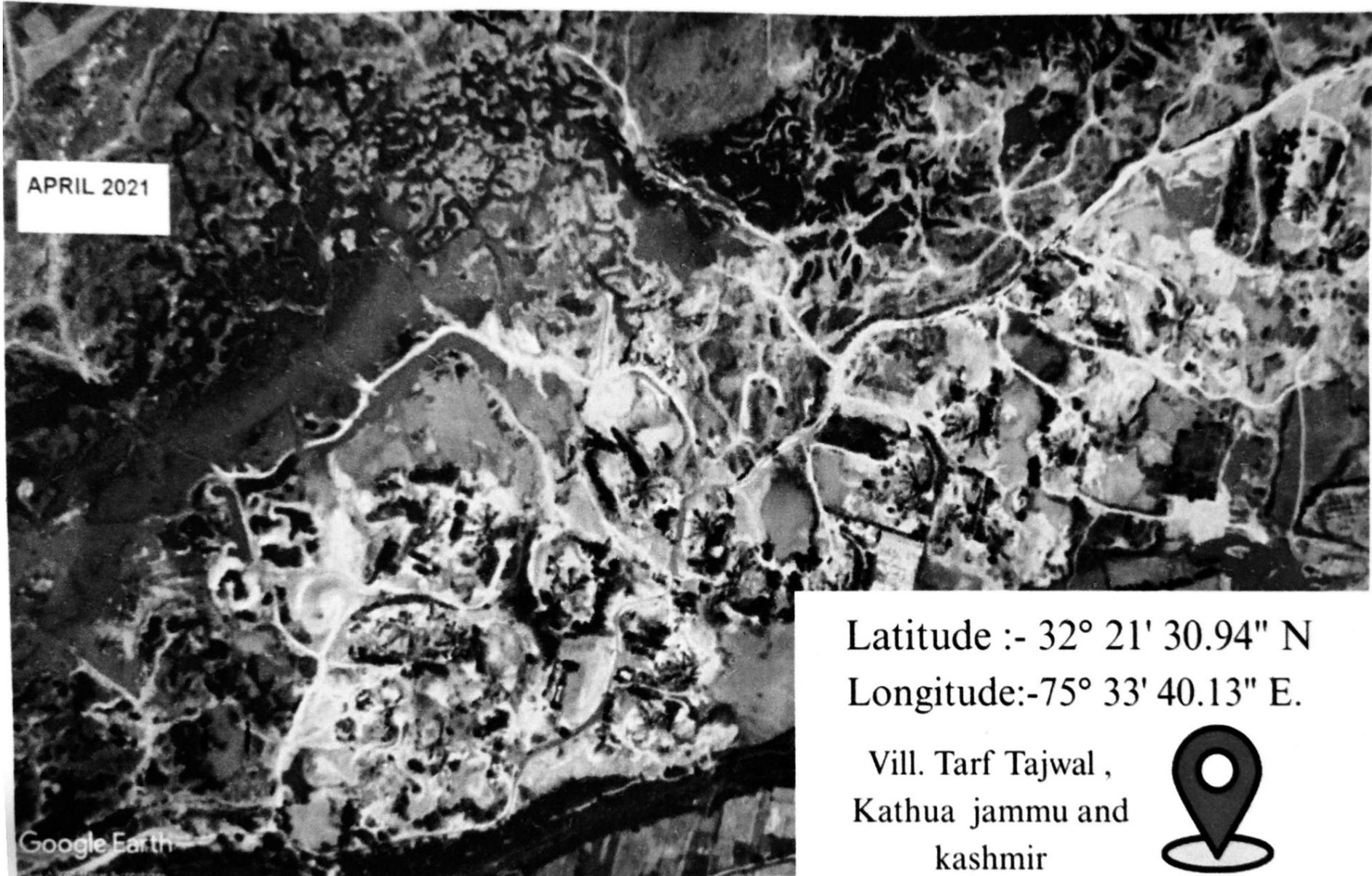
32. Hence, appeal is dismissed.

Prakash Shrivastava, CP Dr. A. Senthil Vel, EM Dr. Afroz Ahmad, EM May 28, 2024 AVT

1245

Amnusuure-AA-3

126.



Latitude :- $32^{\circ} 21' 30.94''$ N
Longitude:- $75^{\circ} 33' 40.13''$ E.

Vill. Tarf Tajwal ,
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kashmir



1246

Annexure-AA-4

127

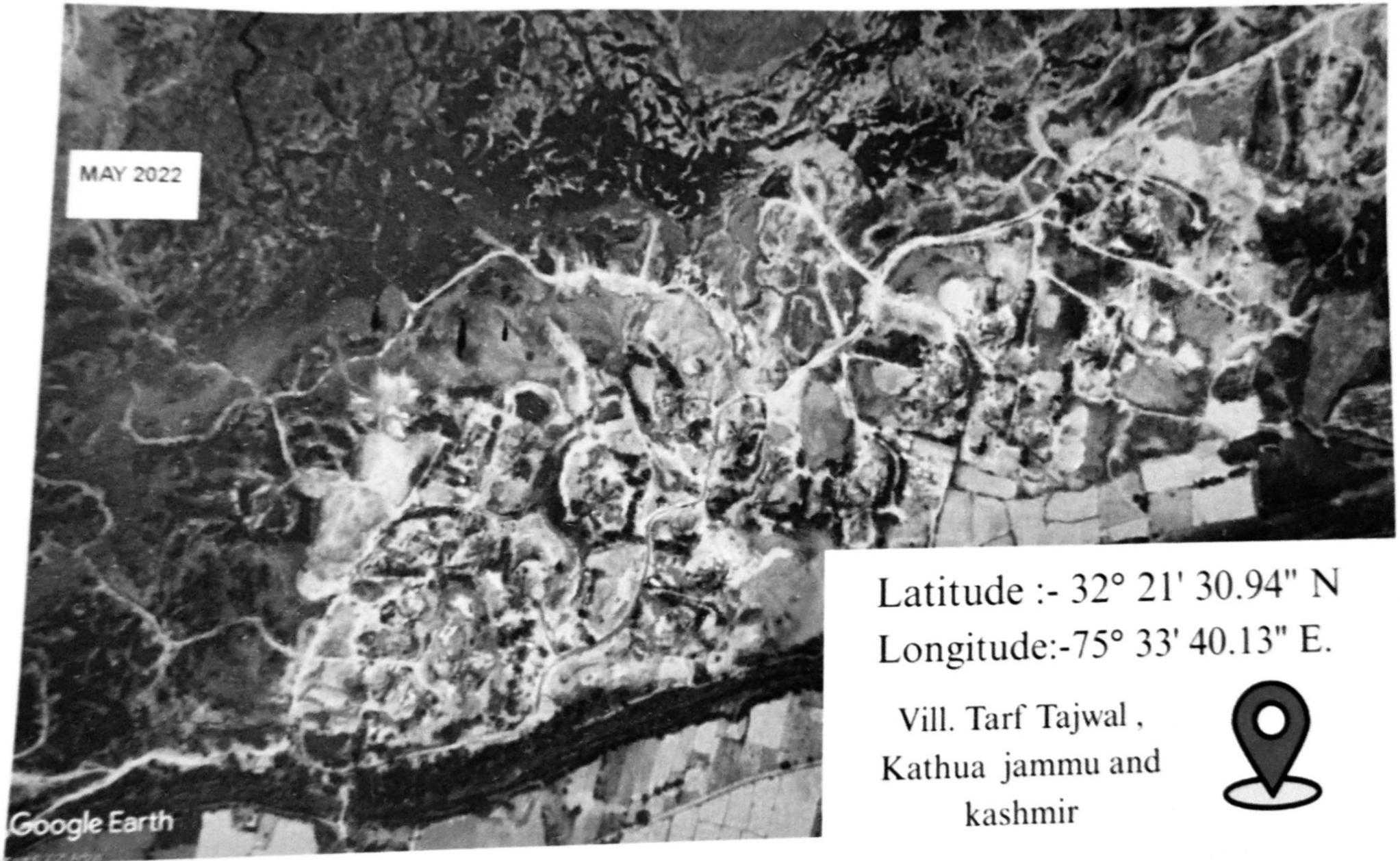
OCTOBER 2021

Google Earth

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Vill. Tarf Tajwal ,
Kathua jammu and
kashmir





Latitude :- $32^{\circ} 21' 30.94''$ N
Longitude:- $75^{\circ} 33' 40.13''$ E.

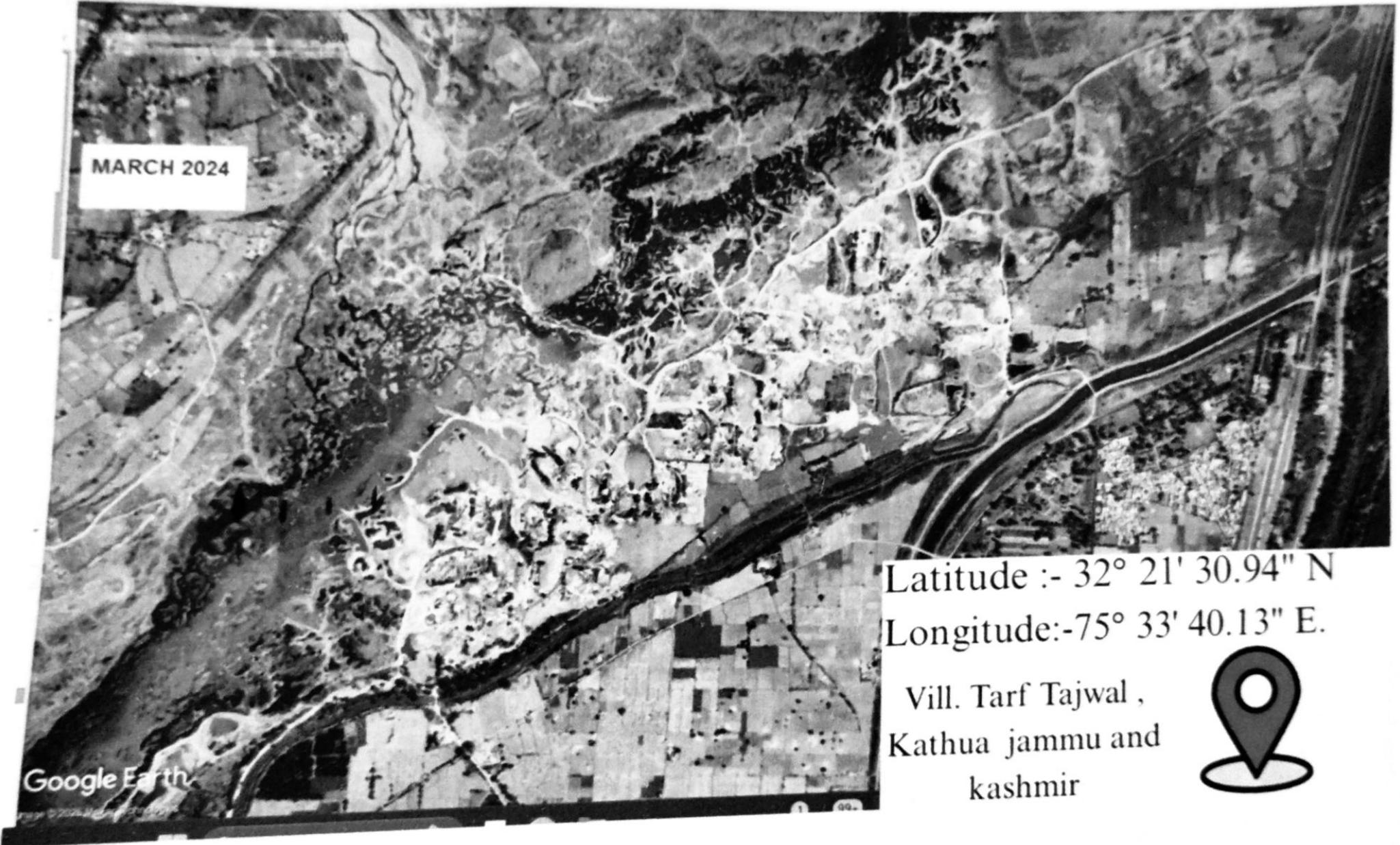
Vill. Tarf Tajwal ,
Kathua jammu and
kashmir



1248

Annexure-AA-6

129.



1249

130.

Annexure AA-7

MARCH 2025

Latitude :- $32^{\circ} 21' 30.94''$ N
Longitude:- $75^{\circ} 33' 40.13''$ E.

Vill. Tarf Tajwal ,
Kathua jammu and
kashmir



Google Earth



Surinder
Today at 12:41 pm

1250



131.

Amrinder-AA-8

