

Part-I : CENTRAL LAW RELATING TO MINOR MINERALS

(i) Definition :

The term 'minor mineral' has been defined in clause(e) of section 3 of the Mines and Minerals (Regulation & Development) Act, 1957 (hereafter called MM(RD) Act, 1957) as :

"(e) 'minor minerals' means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral;"

Apart from the minerals already listed as minor minerals in the above clause, the Central Government has declared* the following minerals as minor minerals :

(1) boulder, (2) shingle, (3) chalcedony pebbles used for ball mill purposes only, (4) limeshell, kankar and limestone used in kilns for manufacture of lime used as building material, (5) murrum, (6) brick-earth, (7) fuller's earth, (8) bentonite, (9) road metal, (10) reh-matti, (11) slate and shale when used for building material, (12) marble, (13) stone used for making household utensils, (14) quartzite and sandstone when used for purposes of building or for making road metal and household utensils, and (15) saltpetre.

The term 'ordinary sand' used in clause (e) of section 3 of the MM(RD) Act, 1957, reproduced above has been clarified in rule 70 of the Mineral Concession Rules, 1960 (hereafter called MCR, 1960) as follows :

"Sand shall not be treated as a minor mineral when used for any of the following purpose, namely :

- (i) purposes of refractory and manufacture of ceramic;
- (ii) metallurgical purposes;
- (iii) optical purposes;

*Vide Notification No.MII-159(18)-54-A-II, dated 1.6.1958 (for minor minerals 1 - 3, and 5 - 11)

- ❖ Notification No.MII-159-(18)-54-A-II, dated 1.6.1958 and No.MII-169(40)-40-58, dated 20.9.1961 (for minor mineral 4)
- ❖ Notification No.MII-159(6)-57, dated 3.9.1959 (for minor mineral 12)
- ❖ Notification No.MII-159(11)-59, dated 4.6.1960 (for minor mineral 13)
- ❖ Notification No.MII-1(1)-63, dated 25.2.1965 (for minor mineral 14)
- ❖ Notification No.1(31)-65-MII, dated 21.1.1967 (for minor mineral 15)

- (iv) purposes of stowing in coal mines;
- (v) for manufacture of silvicrete cement;
- (vi) for manufacture of sodium silicate; and
- (vii) for manufacture of pottery and glass".

(ii) Historical Background :

During the British period, the rules for the grant of mineral concessions in British India were for the first time promulgated by the Department of Revenue and Agriculture (Geology and Minerals) by a resolution dated the 13th December, 1894. These rules were revised in 1899. Neither the 1894 nor the 1899 rules made any mention of minor minerals. In 1913 a new set of revised rules was promulgated by Resolution No.7552-7581-121 dated the 15th September, 1913. Unlike the previous rules, these rules, for the first time, made a reference to minor minerals the extraction of which was to be regulated by such separate rules as the local government might lay down in accordance with local circumstances and requirements. No exhaustive definition of minor minerals was given, but they included slate, building stone, limestone and clay. These rules continued to be in force in the entire British India until the coming into force of the Government of India Act of 1935 under which the properties in minerals became a provincial subject. In 1939 the Government of India issued mining Concessions (Central) Rules, 1939 for regulating grants of prospecting licences and mining leases under Chief Commissioner's Provinces and British Baluchistan. Rule 6 of the 1939 rules laid down that these rules were not to be applied to minor minerals such as slate, building stone, limestone and clay, the extraction of which was to be regulated by such separate rules as the Chief Commissioner may prescribe. It will thus be seen that the provisions relating to the minor minerals under the 1939 rules were similar to those in 1913 rules. The list of minor minerals is also identical under these two sets of rules. It is not known whether any classification of minerals for the purposes of grant of mineral concessions was made in the case of Indian States.

The term 'minor minerals' was not defined in the Mines and Minerals (Regulation and Development) Act, 1948 and no provisions were made in this Act relating to minor minerals. It was, however, defined in clause (iii) of rule 3 of the Mineral Concession Rules, 1949 framed under Section 5 of the Mines and Minerals (Regulation and Development) Act, 1948 as "the 'minor mineral' means building stone, boulder, shingle, gravel, chalcedony pebbles, lime-shells, kankar and limestone used for lime burning, murrum, brick-earth, fuller's earth, bentonite, ordinary clay, ordinary sand, road metal, rehmatti, slate and shale when used for building material". According to rule 4 of the Mineral Concession Rules, 1949, these rules were not applicable to minor minerals. The extraction of minor minerals was left to be regulated by such rules as the Provincial Government may prescribe. Similarly, minor minerals were outside the purview of the Mineral Conservation and Development Rules, 1955 in accordance with rule 3 of these rules.

(iii) Legal Regime of Minor Minerals :

Under MM(RD) Act, 1957* :

According to section 14 of the above Act " the provisions of sections 5 to 13 (inclusive) shall not apply to quarry leases or other mineral concessions in respect of minor minerals".

In other words, the restrictions on the grant of prospecting licences or mining leases, maximum area and period for which mining leases could be granted, royalty and dead rent payable by holders of mining leases contained in sections 5 to 10 and procedure for obtaining prospecting licences or mining leases in respect of land in which minerals vest in the Government contained in sections 10 to 12 do not apply to minor minerals. Similarly, the MCR, 1960 framed under section 13 of this Act are also not applicable to minor minerals due to the exclusion of section 13 as stated above.

Section 15 of the Act empowers the State Government to make rules in respect of minor minerals. This section reads -

"15(1) The State Government may, by notification in the Official Gazette, make rules for regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith.

(1A) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

- (a) the person by whom and the manner in which, applications for quarry leases; mining leases or other mineral concessions may be made and the fees to be paid therefor;
- (b) the time within which, and the form in which, acknowledgement of the receipt of any such applications may be sent;
- (c) the matters which may be considered where applications in respect of the same land are received within the same day;
- (d) the terms on which, and the conditions subject to which and the authority by which quarry leases, mining leases or other mineral concessions may be granted or renewed;
- (e) the procedure for obtaining quarry leases, mining leases or other mineral concessions;

* Incorporating the amendments made by the Mines and Minerals (Regulation and Development) Act, 1994.

- (f) the facilities to be afforded by holders of quarry leases, mining leases or other mineral concessions to persons deputed by the Government for the purpose of undertaking research or training in matters relating to mining operations;
- (g) the fixing and collection of rent, royalty, fees, dead rent, fines or other charges and the time within which and the manner in which these shall be payable;
- (h) the manner in which rights of third parties may be protected (whether by way of payment of compensation or otherwise) in cases where any such party is prejudicially affected by reason of prospecting or mining operations;
- (i) the manner in which rehabilitation of flora and other vegetation such as trees, shrubs and the like destroyed by reason of any quarrying or mining operations shall be made in the same area or any other area selected by the State Government (whether by way of reimbursement of the cost of rehabilitation or otherwise) by the person holding the quarrying or mining lease;
- (j) the manner in which and the conditions subject to which, a quarry lease, mining lease or other mineral concession may be transferred;
- (k) the construction, maintenance and use of road, power transmission lines, tramways, railways, aerial ropeways, pipelines and the making of passage for water for mining purposes on any land comprised in a quarry or mining lease or other mineral concession;
- (l) the term of registers to be maintained under this Act;
- (m) the reports and the statements to be submitted by holders of quarry or mining leases or other mineral concessions and the authority to which such reports and statements shall be submitted;
- (n) the period within which and the manner in which and the authority to which applications for revision of any order passed by any authority under these rules may be made, the fees to be paid therefor, and the powers of the revisional authority; and
- (o) any other matters which is to be, or may be, prescribed.

2. Until rules are made under sub-section (1), any rules made by a State Government regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals which are in force immediately before the commencement of this Act shall continue in force.

3. The holder of a mining lease or any other mineral concession granted under any rules made under sub-section (1) shall pay royalty or dead rent, whichever is more in respect of minor minerals removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee at the rate prescribed for the time being in the rules framed by the State Government in respect of minor minerals :

"provided that the State Government shall not enhance the rate of royalty or dead rent in respect of any minor minerals for more than once during any period of three years.

Section 4A of the Act provides for premature termination of mineral concessions in certain circumstances. The relevant provisions of section 4A are reproduced below :

(2) Where the State Government¹ { } is of opinion that it is expedient in the interest of regulation of mines and mineral development, preservation of natural environment, control of floods, prevention of pollution or to avoid the danger to public health or communications or to ensure safety of building, monuments or other structures or for such other purposes, as the State Government may deem fit, it may, by an order, in respect of any minor mineral, make premature termination of a prospecting licence or mining lease with respect to the area or any part thereof covered by such licence or lease.

Provided that the State Government may, after the premature termination of a prospecting licence or mining lease under subsection (1) or subsection (2), as the case may be, grant a prospecting licence or mining lease in favour of such Government company or corporation owned or controlled by Government as it may think fit.

(3) No order making a premature termination of prospecting licence or mining lease shall be made except after giving the holder of the licence or lease a reasonable opportunity of being heard.

(4) Where the holder of mining lease fails to undertake mining operations for a period of¹ {two years} after the date of execution of the lease or having commenced mining operations, had discontinued the same for a period of² {two years} the lease shall lapse on the expiry of the period of³ {two years} from the date of execution of the lease or, as the case may be, discontinuance of mining operations :

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

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

Provided also that no lease shall be revived under the second proviso for more than twice during the entire period of the lease.

¹Substituted by MM(RD) Amendment Act, 1994 vide G.O.I. Ext. Part II, Section 1, dated 28.3.1994 (effective from 25.1.1994)

²ibid ³ibid

Sec 28⁴(3) - Every rule and every notification made by the state government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two houses or where such legislature consists of one House, before that house}.

The other provisions of the MM(RD) Act, 1957 other than those discussed above are applicable to all minerals including minor minerals.

Under Mining Leases (Modification of terms) Rules, 1956 :

The Mining Leases (Modification of terms) Rules, 1956 framed under section 16 of the MM(RD) Act, 1957 do not apply to minor minerals by virtue of the provisions contained in clause (c) of rule 2 of these Rules.

Under Mineral Conservation and Development Rules, 1988 :

The Mineral Conservation and Development Rules, 1988 framed under section 18 of the MM(RD) Act, 1957 do not apply to minor minerals in accordance with the provisions of clause (iv) of rule 2 of these Rules.

Under the Mines Act, 1952 and the Rules and Regulations framed thereunder :

The Mines Act, 1952 does not either use or define the term minor mineral. However, a number of minerals which have been declared as minor minerals under clause (e) of section 3 of the MM(RD) Act, 1957 find a place in sub-section (1) of section 3 of the Mines Act, 1952. The relevant portions of section 3 of the Mines Act, 1952 are reproduced below :

"3. (1) The provisions of this Act, except those contained in section 7, 8, 9, 40, 45 and 46 shall not apply to :

- (a)
- (b) any mine engaged in the extraction of kankar, murrum, laterite, boulder, gravel, shingle, ordinary sand (excluding moulding sand, glass sand and other mineral sands), ordinary clay (excluding kaolin, chinaclay, white clay or fire clay), building stone, slate, road metal, earth, fuller's earth, marl, chalk and limestone :

Provided that -

- (i) The workings do not extend below super-jacent ground; or

⁴Inserted by MM(RD) Amendment Act, 1994 vide G.O.I. Ext. Part II, Section 1, dated 28.3.1994 (effective from 25.1.1994)

- (ii) Where it is an opencast working -
 - (a) the depth of the excavation measured from its highest to its lowest point nowhere exceeds six metres;
 - (b) the number of persons employed on any one day does not exceed fifty; and
 - (c) explosives are not used in connection with the excavation.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that, having regard to the circumstances obtaining in relation to a mine or part thereof or group or class of mines, it is necessary or desirable so to do, by notification in the Official Gazette, declare that any of the provisions of this Act, not set out in sub-section (1), shall apply to any such mine or part thereof or group or class of mines or any class of persons employed therein.

(3)"

Sections 7, 8, 9, 40, 45 and 46 of the Mines Act, 1952 which have been excluded from the operation of section 3 above contain provisions regarding certain basis matters such as powers of Inspectors of Mines; Powers of special officers to enter, measure, etc. : facilities to be afforded to Inspectors; employment of persons below eighteen years age; prohibition of the presence of persons below eighteen years of age in a mine and employment of women, respectively.

Section 83 of this Act empowers the Central Government to exempt either absolutely or subject to any specified conditions any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any of the provisions of this Act or the regulations, rules or bye-laws.