

3. BIHAR

3.1 TITLE

The Bihar Minor Mineral Concession Rules, 1972.

3.2 ADMINISTERING AUTHORITY

The Collector of the District is the granting authority for the mining lease. The quarrying permit is granted by the competent officer which term is defined to include : (i) the Divisional Forest Officer in case of land notified as reserved and protected forest; and (ii) District Mining Officer or 'Assistant Mining Officer of the District' or Circle or any other officer authorised by the State Government, in case of all other land.

The Commissioner of Mines and Geology is the appellate authority against orders passed by the Collector. Appeals against the orders of the 'Competent Officer' lie with the Deputy Director (Mines).

3.3 TYPES OF CONCESSION

There are two types of concessions in vogue : (i) mining lease and (ii) quarrying permit. The mining lease is granted for a period of time and is similar in nature to the mining lease granted under MCR, 1960. A quarrying permit, on the other hand, is granted for extraction and removal of specified quantity of any minor mineral from a specified area.

3.4 PROCEDURE FOR GRANT

No mining lease or quarrying permit may be granted to a person who is not an Indian national or in respect of land notified by the Government as reserved for use of the Government, local authorities or for any other public or special purposes, except with the previous approval of the State Government. The State Government may, in public interest, grant a mining lease or authorise the grant of a quarrying permit on terms and conditions other than those prescribed in the rules.

3.4.1 MINING LEASE

Grant of leases in respect of sand as minor mineral is settled by public auction by Collector to the highest bidder on annual basis. Before auction, the bidders have to produce no mining dues certificate. Every settle of sand as minor mineral has to deposit 10% of auctioned amount at security for due observance of terms and conditions of settlement and is refundable after expiry of period of settlement. A deed is to be executed within 60 days of the order of settlement, failing which it will be deemed to have been revoked and security deposit, etc. paid may be forfeited.

In other cases, an application for the grant of a mining lease should be made to the "Collector" in the prescribed form and must be accompanied by (i) a fee of Rs.2,000/- (ii) details of the land, (iii) a clearance certificate of payment of mining dues (royalty, dead

rent, surface rent and cess), and (iv) a certificate of approval. The 'Collector' may grant or refuse to grant the lease for the whole or part of the area applied for reasons to be recorded in writing and communicated to the applicant.

An application for the grant of a mining lease must be disposed of within a period of 120 days from the date of its receipt. If the application is not disposed of within the aforesaid period it is deemed to have been refused.

In granting the mining lease, preference is to be given to the Government Departments, Public Sector Undertakings of the State or Central Government and local bodies and Cooperative Society where lease is required for work directly concerned with the Department, undertaking or bodies, if they fulfil the conditions required for the grant of mining lease. In all other cases, the applicant whose application was received earlier has a preferential right for the grant of the lease over the applicant whose application was received later. However, the Collector, for any special reasons to be recorded and with the previous approval of the State Government may grant the mining lease to an applicant whose application was received later in preference to an earlier applicant.

Where more than one application is received on the same day, the Collector may grant mining lease to any of the applicants after considering their experience in mining, financial soundness and stability, end use of the minor minerals, etc.

No mining lease may be granted in respect of reserved and protected forest areas without consultation with the Divisional Forest Officer concerned.

Before executing the lease, the applicant is required to deposit an amount of Rs.200/- for meeting the preliminary expenses and refundable security deposit of a sum equal to the annual dead rent fixed for the lease at the maximum rate or Rs.1,000/- whichever is more. The lease must be executed within a period of 90 days from the date of the grant order failing which it will be deemed to have been revoked and application fee, security deposit will be forfeited.

An application for renewal of a mining lease must be made in the prescribed form at least 90 days but not earlier than 180 days before the expiry of the lease and should be accompanied by a fee of Rs.2,000/-, clearance certificate of payment of royalty and dead rent, etc. and certificate of approval. If the application for renewal of the mining lease is not disposed of by the Collector before the date of expiry of the lease, the period of the lease is deemed to have been extended by a further period of 90 days or ending with the date of receipt of the orders of the Collector, whichever is earlier. If the application is not disposed of even within the aforesaid extended period, it is deemed to have been refused. The Collector may refuse to renew the mining lease over whole or part of the area applied for reasons to be recorded in writing and communicated to the applicant.

3.4.2 QUARRYING PERMIT

An application for the grant of a quarrying permit is to be made to the "Competent Officer" (Divisional Forest Officer in case of land notified as reserved and protected forest and District Mining Officer or Assistant Mining Officer, in all other cases) in the prescribed form, accompanied by a fee of Rs.200/- and a valid and up-to-date clearance

certificate of payment of mining dues, if any. In case of raiyati lands, the application should also be accompanied by a written consent letter from the occupant of such lands for the extraction of mineral by the applicant. An application for the grant of a quarrying permit shall be disposed of within 30 days of the date of its receipt. The "Competent Officer" may refuse to grant the permit for reasons to be recorded in writing. The permit is granted for reasons to be recorded in writing. The permit is granted only on pre-payment of the royalty at the rates specified in Schedule-II, on the entire quantity permitted to be extracted under the permit. One of the conditions of the permit is that the depth of the quarry below the surface should not normally exceed 3 metres (1.5 metres for reserved, protected forest areas). Quarrying permits are not granted for brick-earth for brick manufacture by kilns, for which mining lease is to be obtained.

3.5 PERIOD AND AREA

3.5.1 MINING LEASE

The period for which a mining lease may be granted or renewed shall not ordinarily be more than 10 years.

The maximum area that a person can acquire in the State in respect of any minor mineral under one or more mining leases is 100 hectares unless the State Government, for reasons to be recorded, permits area in excess of the aforesaid maximum. The length of the area under the mining lease should not exceed four times its width. The Collector is permitted to relax this condition in any particular case for reasons to be recorded in writing. The area should be in a compact block.

3.5.2 QUARRYING PERMIT

The quarrying permit is granted for the removal of a specified quantity of minor mineral from a specified area. The maximum quantity permitted for removal under any one permit is 3000 cu. metres. In areas under reserved, protected forests, it is limited to 250 cu.m. The limit of pit depth is 3 metres and 1.5 metres, respectively. The area applied for grant of quarrying permit shall be a compact block covering not more than 4 hectares. The period of validity of the permit is specified in the permit. It can be extended on application and a fee of Rs.200/-.

3.6 TRANSFER, SURRENDER, TERMINATION

The holder of a mining lease, with the prior written permission of the Collector, may transfer the mining lease or any right, title or investment thereunder, in favour of any person after payment of a fee of Rs.100/- and production of royalty clearance certificate by both, lessee and transferee. However, the transferee should not hold one or more mining leases for any minor mineral over an area exceeding 100 hectares. The transferer and transferee are required to produce clearance certificate of payment of mining dues. The application for the transfer of a mining lease must be disposed of within 90 days from the date of its receipt, otherwise it is deemed to have been refused.

The holder of a mining lease can surrender his lease any time by giving atleast six months written notice to the Competent Officer.

The State Government may terminate any mining lease, after giving a 3 calendar months' notice to the lessee if it considers necessary to do so in the public interest or if the lessee has caused any damage to the property. No notice is required to be given during the period of war or emergency. In case of default in the payment of rents and royalty or violation of any other terms or conditions of the mining lease, if the lessee fails to make payment of the due amount or fails to remedy the violations of the other terms and conditions of lease within a period of 30 days of the notice in this regard, the Competent Officer may determine the lease and forfeit part or whole of the security deposit.

There is no provision in rules for transfer or surrender of a quarrying permit. The permit may be cancelled in case of breach of any of the conditions subject to which the permit was granted.

3.7 RENTS AND ROYALTIES

Dead rent : The dead rent is payable for the entire area covered by the lease and for each year of lease, at the rate prescribed in Schedule-I. If the lease permits for the working of more than one mineral in the same area, the Collector may charge separate dead rent in respect of each mineral. However, the lessee is liable to pay either the dead rent or royalty in respect of each mineral whichever is higher in amount, but not both. The dead rent is to be paid in four equal quarterly installments or two equal half-yearly installments on the dates fixed by the Collector. The State Government is empowered to amend the Schedule-I so as to enhance or reduce the rate of dead rent.

Schedule-I (Dead rent)

Period	Rate of dead rent
Rate per year for entire period of lease.	Rs.3,000/- per acre per year.

Surface rent : Surface rent is charged at the rate specified by the Collector from time to time for the area occupied or used by the lessee. The surface rent is to be paid on quarterly or half-yearly dates fixed for payment of dead rent.

Royalty : Royalty is charged at the rates specified in Schedule-II. In case of mining lease it is to be paid in four equal installments on the dates indicated in the lease deed. On the other hand, in case of quarrying permits the royalty is required to be paid in advance.

The State Government is empowered to amend the Schedule-II so as to enhance or reduce the rate of royalty.

The rates of royalty currently in force are given below :

Schedule-II (Rates of Royalty)

Mineral	Rate per cubic metre (Rs.)
1. Building stones including stone chips, Boulder, road metal and ballast.	12.00
2. Gravel	12.00
3. Ordinary clay	
(i) Clay used for the manufacture of Raniganj tiles.	10.00
(ii) Clay used for other purposes.	10.00
4. Ordinary sand used for construction purposes.	
a) - - - - -	6.00
b) Amount of auction.	
5. Shingle	12.00
6. Chalcedony pebbles used for ball mill purpose only.	12.00
7. Limeshell, kankar and limestone used in kilns For manufacture of lime used as building Material and limeshell used for manufacture of buttons.	24.00
8. Murrum	10.00
9. Brick earth #	10.00 (equivalent to 400 standard bricks)
10. Fuller's earth	40.00
11. Bentonite	40.00
12. Reh-matti	12.00
13. Slate and shale when used for building materials.	20.00

Mineral	Rate per cubic metre (Rs.)
14. Marble	
i) Block	150.00
ii) Boulders chips	100.00
iii) Slag	200.00
iv) Dust	80.00
15. Stones used for making household utensils Including grinding stones.	20.00
16. Quartzite and sandstone when used for Purposes of building or for making road Metal and household utensils.	10.00
17. Saltpetre	16.00
18. Stone dust	3.00
19. Stone sets and stone bricks.	30.00 per hundred
20. Granites	
i) for blocks	225.00
ii) small blocks less than 60 cms.	120.00

In the case of royalty on brick earth, the State Government may determine a consolidated amount of royalty, which may be revised once in three years, and which is payable per kiln per annum by the kiln owner/brick earth remover, in prescribed manner on a fixed number of bricks for every classified area for this purpose, the Government may classify the different places in different categories. Non-payment of royalty as consolidated amount may result in not being allowed to carry on business.

3.8 DISPUTE SETTLEMENT PROCEDURE

Any person aggrieved by any order passed by the Collector may, within 60 days from the date of communication of the order to him, or within 75 days of deemed refusal if no communication of such refusal is made to him, apply to the Commissioner of Mines and Geology for revision of the order. The Commissioner may, at any time, for reasons to be recorded, on his own motion, commence revision proceedings. After calling for and considering the records from the Collector, the Commissioner may confirm, modify or set aside the order or pass such order as he may deem just and proper. His order is final.

In case of orders passed by the Competent Officer, the appeal will lie to the Deputy Director of Mines of the area concerned if the application is filed within a period of 30 days from the date of the order accompanied by Treasury receipt indicating that a fee of Rs.25/- has been paid into the Government Treasury or in any branch of the State Bank of India transacting the Treasury business. The appellate authority may confirm, modify or set aside the order under appeal after giving opportunity of being heard and, if necessary, after considering the report of the competent officer.

The Commissioner may, at any time within 6 years, examine records or record of any proceedings, on his own motion or on an application filed within 90 days alongwith a treasury receipt of Rs.50/- before him. Orders passed by Collector or Deputy Director of Mines are subject to this provision for the purpose of satisfying as to the legality or propriety of such order. The Commissioner may pass any order as he may deem proper, after giving a reasonable opportunity of being heard to the applicant as also the authority whose order is sought to be revised.