

## 7. GUJARAT

### 7.1 TITLE

Gujarat Minor Mineral Rules, 1966.

### 7.2 ADMINISTERING AUTHORITY

The quarry lease, quarrying parwana and the quarrying permit are granted by the 'Competent Officer'. The Competent Officer means such Government Officer or such officer of a District or a Taluka Panchayat as the State Government may, by notification in the Official Gazettee, appoint to perform all or any of the functions of a Competent Officer under the provisions of these rules. The Collectors of the district have been appointed for performing the functions of competent officers under these rules.

The Director of Geology and Mining is the appellate authority against the orders passed by the Competent Officer. The State Government may revise any orders passed by the Director.

### 7.3 TYPES OF CONCESSIONS

There are three types of concessions in vogue, viz. 'quarry lease', 'quarrying parwana' and 'quarrying permit'. The 'quarry lease' is similar in nature to the mining lease granted under MCR, 1960. On the other hand, the 'quarrying parwana' is granted to extract and remove minor mineral from land not exceeding a specified area of small dimension to socio-economically weaker sections for self-employment. The 'quarrying permit' is granted for extraction and removal of a specified quantity of minor mineral from a specified land to meet small requirements temporarily.

### 7.4 PROCEDURE FOR GRANT

#### 7.4.1 QUARRYING LEASE

No quarry lease shall be granted :

- (i) to any person other than an Indian citizen without the prior approval of the State Government;
- (ii) in respect of any specified minor mineral (marble, limestone, limeshell, bentonite, fuller's earth and chalcedony pebbles used for ball mill purposes) except in accordance with general directions issued from time to time by the Director, Geology and Mining;
- (iii) in respect of land notified by the Government as reserved for the use of Government, local authorities or for any other public or special purposes;
- (iv) in respect of an area or a mineral in respect of which a mining lease has been granted; and

- (v) till the application for mining lease under MCR, 1960 is decided, if there is also such an application for mining lease in respect of the same mineral or different minerals in the same area as the quarry lease.

Application for the grant of quarry lease in respect of land in which minerals vest in the Government should be made to the competent Officer, in triplicate in the prescribed Form 'A' accompanied by a treasury challan of Rs.250/- for area below 5 hectares or part thereof & Rs.500/- for area of 5 hectares and above. It should also be accompanied by plan and certified copies of the relevant extracts of the Record of Rights pertaining to the lands in respect of which the quarry lease is applied for.

In case of competing applications for a quarry lease in respect of the same land, the quarry lease shall be granted in the following order of priority : (i) a person who has set up a mineral based industry in the State which consumes the minor mineral as raw material in the industrial units established in the State; (ii) a co-operative society or any other semi-Government body; (iii) a person who intends to set up a mineral-based industry in the State; and (iv) other applicants. However, where a person holding a mining lease in respect of an area applies for a quarry lease in respect of that area he may be given priority over all the other applicants. In the event of more than one person belonging to the same category applies for a quarry lease for the same land on the same day, the Competent Officer, after taking into consideration matters such as past experience of the applicants in quarrying, number of quarry leases already held by the applicants, financial resources and stability of the applicant, technical qualifications possessed by the applicants, etc. may grant the lease to such one of them or distribute the land in such manner between them as he deems fit. The Competent Officer may, subject to such general instructions and directions as may be issued by the Director of Geology and Mining from time to time regarding conservation and scientific and economic development of the minerals, for any special reasons to be recorded in writing and notwithstanding the priority rule stated above grant a quarry lease to an applicant whose application was received later or to an applicant irrespective of the category to which he belongs or distribute the area applied for between or amongst the applicants as he may deem fit.

On receipt of an application for the grant of a quarry lease, the Competent Officer, after making such enquiries as he deems fit, may sanction the grant of such lease over the whole or part of the area applied for. In case the application is refused, the Competent Officer shall communicate to the applicant in writing the reasons for the refusal and refund the application fee. In case the Competent Officer is an officer of a district panchayat or taluka panchayat or a relevant officer he shall, unless the mineral for which the application has been made is river sand, obtain the technical opinion of the Director or an officer authorised by him before taking a decision as to whether the quarry lease should be granted or refused.

The lease deed shall be executed within three months of the date of the order sanctioning the lease, and if no such deed is executed within the said period, the order granting the lease shall be deemed to have been revoked. A security deposit for the due observance of the terms and conditions of the lease, amounting to Rs.1,000/- per hectare or part thereof subject to a minimum of Rs.10,000/- shall be deposited before the execution of the lease deed.

When a quarry lease is granted, arrangements shall be made at the expense of the lessee for the survey and demarcation of the area granted under lease and the possession of the area will be handed over to the lessee after the execution of the lease.

An application for the renewal of a quarry lease shall be presented, in the prescribed Form 'F' in triplicate, to the Competent Officer at least 90 days before the expiry of the lease. It must be accompanied by a treasury challan of Rs.250/- for an area of less than 5 hectares and Rs.500/- for an area of 5 hectares and more and a map of the area to be renewed.

#### 7.4.2 QUARRYING PARWANA

The Director of Geology and Mining may reserve areas of limestone, black trap, sandstone and building stones for the purpose of grant of quarrying parwana or quarrying permit as he deems fit, after notifying the same. No quarry lease shall be granted in such reserved areas.

On an application made to the Competent Officer, he may grant a quarrying parwana to extract and remove from the specified area within his jurisdiction minor mineral from a plot not exceeding 2000 sq.m., as may be specified by the Competent Officer. The Competent Officer may grant such parwana in the following order of priority :

- (a) Individual families of Khanias belonging to Schedule Castes or Scheduled Tribes, who do physical work of excavating minor mineral in the area applied for, provided that a certificate to that effect from the Competent Authority shall have to be attached with the application.
- (b) Individual families of Khanias who do physical work of excavating minor mineral in the area applied for.
- (c) New individual Khanias who do physical work in excavating minor minerals in any other areas.

The application must be accompanied by a treasury challan for Rs.50/- for areas up to 1000 sq.m. and Rs.100/- for areas up to 2000 sq.m., as the application fee, if the Competent Officer refuses to grant the quarrying parwana applied for, the application fee shall be refunded.

The quarrying parwana is granted for one year ending 31<sup>st</sup> December on application in Form 'A' as in case of a quarrying lease on payment of an application fee of Rs.50/- for areas up to 1000 sq.m. and Rs.100/- for areas above 1000 sq.m. and up to 2000 sq.m., to be paid before the expiry of the parwana.

The parwana is renewable for period not exceeding three years on payment of similar fees as prescribed for grant, for each year of renewal, before expiry.

The persons in whose favour a quarrying parwana is granted shall, before the parwana is issued, deposit as security for due observance of the terms and conditions of the parwana a sum of Rs.50/-.

#### 7.4.3 QUARRYING PERMIT

The application for the grant of quarrying permit is to be made to the Competent Officer in a prescribed form-I for extraction and removal of minor mineral not exceeding 4000 tonnes under any permit. The application should be accompanied, in addition to royalty calculated at the rate given in Schedule, by a fee, paid by a treasury challan, calculated at the rate of Rs.50/- for the first 500 tonnes or part thereof. The application should also be accompanied by certified true copies of the relevant extracts of the Record of Rights in respect of the lands and a map of the area from which the minor mineral is proposed to be extracted. In case the lands from which the minor mineral is to be extracted are occupied lands, the application must be accompanied by a letter from the occupant of such lands to the effect that he has no objection to the extraction of the material by the applicant. Also, in case of private lands under cultivation, an order from the revenue officer concerned permitting the non-agricultural use of the land should be enclosed with the application.

On receipt of the application accompanied with payment of fees and royalties calculated at the rates specified in Schedule-I to these rules, the Competent Officer may grant a quarrying permit to any person to extract and remove from specified land within his jurisdiction quantity of minor mineral not exceeding 4000 tonnes under any one permit. However, where the Competent Officer to whom such an application has been made is an officer of a district or taluka panchayat or revenue officer, he shall, unless the mineral for which the application has been made is river sand, obtain the technical opinion of an officer authorised by the Director of Geology and Mining, before taking a decision as to whether the permit should be granted or refused, the competent officer may refused to grant such permit for reasons to be recorded and communicated to the applicant in writing. In case of refusal the Competent Officer shall refund the amount of royalty paid along with the application fee.

Where two or more persons apply for a quarrying permit for the same land and one such applicant is a co-operative society registered under the Gujarat Co-operative Societies Act, 1961, priority shall be given to such a co-operative society. When two or more co-operative societies apply for the same land, on the same day one of the societies may be granted the permit or the land may be distributed between them as the Competent Officer deems fit after taking into consideration their past experience in quarrying, number of quarrying permits already held by them, their financial resources and stabilities, technical qualifications possessed and any claim for having systematically worked any area at any time in the past. Depth of pit under the permit shall not exceed 6 metres and the permit shall be subject to other conditions mentioned therein.

#### 7.4.4 MISCELLANEOUS

Notwithstanding the procedure described above, the rules empower the Competent Officer to sell by public auction or otherwise dispose of the right to remove any minor mineral or of collection of royalty thereon in such cases or class of cases and

on such terms and conditions as the State Government may by general or special order direct.

The rules also empower the State Government to authorise the Director of Geology and Mining to direct the Competent Officer to grant any land for the extraction of any minor mineral on terms and conditions, including the rates of royalty to be paid and the manner of its computation, different from those prescribed in these rules.

## 7.5 PERIOD AND AREA

### 7.5.1 QUARRY LEASE

The period for which a quarry lease for ordinary sand, kankar, murrum and gravel may be granted shall not exceed 3 years. The quarry leases for these minerals may be renewed for one or more periods, each period not exceeding 3 years. However, the total period for which the lease may be renewed shall not exceed 12 years in the aggregate. The maximum period for which a quarry lease in respect of all other minor minerals (other than ordinary sand, kankar, murrum and gravel) may be granted is 10 years. The quarry lease for these minor minerals may be renewed for one or more periods, each period not exceeding 10 years, and the total period for which the lease may be renewed shall not exceed 20 years. However, if the State Government is of the opinion that in the interest of mineral development and industrial development of the State, it is necessary so to do, for the purpose of establishing a mineral based industry in the State, it may, for the reasons to be recorded in writing, grant or renew a quarry lease for a period not exceeding 20 years.

No quarry lease shall be granted for an area exceeding 10 hectares in case of ordinary sand, 10 hectares in case of 'specified minor minerals' (marble, limestone, limeshell, bentonite, fuller's earth and chalcedony pebbles for ball mill purposes) and 20 hectares in case of all other minor minerals. In case of a co-operative society having more than 10 members, additional area at the rate of 0.5 hectare for such additional member over ten, may be granted. No lessee by himself or jointly with any person shall hold in the aggregate more than one half sq.km. of area under one or more quarry leases in respect of one or more minor minerals within the State. This limit shall include any area taken on lease from private individuals within the State. The State Government may relax this condition in the interest of mineral development, industrial development, etc. The area under a quarry lease shall be a compact block, the length of which shall not exceed four times its width. This condition may be relaxed by the Competent Officer in any special case.

### 7.5.2 QUARRYING PARWANA

A quarrying parwana is granted for one year ending with 31<sup>st</sup> December. The parwana granted in the last quarter of a year is valid until the 31<sup>st</sup> December of the next following year. It shall be renewable every year. The maximum area under a quarrying parwana shall not exceed 2000 sq.m. The area shall be in the form of a square or rectangle whose length should not exceed four times its width. No person shall be granted, individually or jointly, land exceeding one hectare or five plots. Any person

holding a quarry lease or a Sanad under the Saurashtra Quarry Rules for the minor mineral concerned, shall be granted a parwana.

### 7.5.3 QUARRYING PERMIT

The quarrying permit is granted to extract and remove any specified quantity of a minor mineral from specified land. The maximum quantity permitted to be extracted under one permit is 4000 tonnes. The permit will specify the period within which the permitted quantity should be extracted and removed besides other conditions.

### 7.6 TRANSFER, SURRENDER, TERMINATION

The holder of quarry lease shall not without the previous consent in writing of the Director of Geology and Mining : (a) assign, sublet or mortgage, or in any other manner transfer the quarry lease, or any right, title or interest therein, or (b) enter into an understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by or under which the lessee's operation or undertakings will or may be substantially controlled by any person or body of persons other than the lessee. The lessee must pay to the Government a fee of Rs.1000/- for the first two hectares and Rs.1000/- for every additional two hectares or part thereof, or 12.5% of the monetary consideration, whichever is higher before the DGM's consent becomes effective. The conditions regarding grant of a quarry lease (eligibility, size or shape of area) will be applicable in case of a transfer. The quarrying parwana is non-transferable. There is no provision for the transfer of a quarrying permit.

The holder of a quarry lease may surrender lease un-exploited, virgin areas of his lease in part, or the whole lease by giving a notice in writing of not less than 6 months to the Competent Officer and no fresh liability shall accrue to the lessee from the date of such surrender, provided the area of the lease is handed over to the government. Likewise, the lessee may surrender any part of the area leased to him, at the time of the renewal of the quarry lease.

The quarry lease, quarrying parwana, or the quarrying permit may be cancelled by the Competent Officer for breach of any of the conditions subject to which the lease/parwana/permit was granted. The quarry lease is also liable to be terminated if :

- (i) The lessee ceases to work the quarry, without reasonable cause and without the permission of the Competent Officer, for a continuous period of six months;
- (ii) any rent or royalty remains at any time unpaid for 60 days after the date on which it is due; and
- (iii) the lessee, his agent or manager fails to carry out, within the specified period, such directions as any authorised inspecting officer may issue to prevent wasteful extraction or to ensure safety and conservation of minor minerals.

Moreover, the Director of Geology and Mining may at any time by giving 6 months' notice in writing to the lessee, determine the lease if the area under the lease or any part thereof is required by the Government for any public purpose. The lessee shall be paid such compensation as may be determined by an officer appointed by the Government. If any rent or royalty remains at any time unpaid for sixty days after the date on which it is due, the Competent Officer may determine the lease.

If the area held under a quarrying parwana remains idle for a period of 120 days without any cause or without permission, the Competent Officer may cancel the parwana after giving an opportunity to the holder to state his case. If the payment of any amount recoverable under parwana is not made within 30 days of due date, the parwana shall be determined.

## 7.7 RENTS AND ROYALTIES

Surface rent : The holder of a quarry lease is required to pay to the Government, for the surface area leased to him, surface rent at the rate prescribed by the Government from time to time. The current rate is Rs.100/- per hectare or part thereof, per annum. The holder of a quarrying parwana is required to pay surface rent at the rate of 15 paise per 100 sq.m. or part thereof, annually in advance.

Royalty : The lessee of a quarry lease shall pay to the Government royalty on minor minerals quarried and removed/consumed from the leased area at the rates for the time being specified in Schedule, at such time and in such manner as the Government may prescribe. Likewise, the holder of a quarrying parwana is required to pay royalty on the minor mineral to be extracted at 50% of the rates specified in Schedule, as modified from time to time, at such times and in such manner as the Competent Officer may deem fit. Nimbhadas of village potters manufacturing bricks are exempt from royalty on parwana under certain conditions. In case of a quarrying permit the royalty for the quantity covered by the permit, at the rates prescribed in Schedule has to be paid in advance before the permit is issued.

The present rates of royalty are as follows :

**Schedule-I (Rates of Royalty)**

Minor Minerals	Rates of Royalty (Rs. Per tonne)
1. Limestone	
(a) dressed	7.00
(b) undressed (inclusive of lime kankar)	10.00
(c) Coloured limestone	10.00
2. Sand stone	
(a) dressed	7.00
(b) undressed	4.00
3. Quartzite	4.00
4. Phyllite	4.00
5. Slate	4.00
6. Granite	7.00
7. Other building stone	
(a) Trachyte (Rajula building stone)	7.00
(b) Rhyolite, gabbro	7.00
8. Marble	
(a) Blocks	40.00
(b) Rubble	10.00
9. Black trap & hard murrum	7.00
10. Ordinary sand	3.00
11. Kankar	3.00
12. Gravel	3.00



Minor Minerals	Rates of Royalty (Rs. Per tonne)
13. Murrum	3.00
14. Ordinary clay	3.00
15. Brick earth	3.00
16. Bentonite	20.00
17. Fuller's earth	20.00
18. Pebbles	7.00
19. Quartzite pebble	7.00

## 7.8 DISPUTE SETTLEMENT PROCEDURE

Any person aggrieved by an order of the Competent Officer issued under these rules may, within two months of the date of communication of such order to him, file an appeal against such order to the Director of Geology and Mining in Form 'L'. However, the appeal may be entertained even after the said period of two months if the applicant satisfies the Director that he had sufficient cause for not making an appeal within time. Any person aggrieved by an order of the Director under these rules may, within two months of the date of communication of such order to him, apply to the State Government in Form 'L' for revision of the same. The revision application may be entertained even after two months if the applicant satisfied the State Governments that he had sufficient cause for not making the application within time. The appeal or the revision application must be made in the prescribed form and accompanied by a fee of Rs.250/- paid through a treasury challan. Upon receipt of such appeal or revision application, the appellate or revising authority may call for the records of the case and after examining the record of the case may confirm, modify or set aside the order or pass such order in relation thereto as it may deem just and proper.

The State Government may, at any time, of its own accord, call for and examine the record of any order passed by the Competent Officer or the Director under these rules, for the purpose of satisfying itself as to the legality, propriety or merits of any order passed. If in any case, it shall appear to the State Government that any order should be modified, annulled or reversed, it may pass such orders thereon as it may deem fit. The State Government may issue a stay order to stop the working of minerals or for handing over the possession of the area in dispute. However, before any order is passed adversely affecting a person, such person shall be given an opportunity of stating his case.