

10. JAMMU & KASHMIR

10.1 TITLE

Jammu & Kashmir Minor Mineral Concession Rules, 1962.

10.2 ADMINISTERING AUTHORITY

Application for prospecting licence, mining lease and quarrying permit is to be made to the State Government through Director of Geology and Mining (DGM). The power to grant 'quarrying permit' has been delegated to DGM, Mining Engineer and District Mineral Officer within specified, quantitative limits. The State Government may, by notification in the Government Gazette, direct that the powers of the DGM under any or all of these rules may be exercised by any officer or officers of the Directorate of Geology and Mining subject to such restrictions and within such limits and for such areas as the State Government may direct.

Appeal against the orders of the DGM lie with the State Government. Where the functions of the DGM have been delegated to any officer subordinate to him, the DGM will be the appellate authority against the orders of such officers.

10.3 TYPES OF CONCESSIONS

There are three types of concessions available under these rules, namely (1) the 'prospecting licence', (2) the 'mining lease', and the (3) 'quarrying permit'. The 'prospecting licence' and the 'mining lease' are similar in nature to those available under MCR, 1960 whereas the 'quarrying permit' is a permit granted to extract and remove specified quantity of any minor mineral from the specified area.

10.4 PROCEDURE FOR GRANT

No concession is necessary for the extraction of minor minerals : (1) from the private land of another person by mutual agreement so long as the royalty is paid in accordance with the rules; (2) from small stray deposits by agriculturists for bonafide agricultural purposes or for the construction of their personal dwellings; (3) by a person from his/her private property for his/her personal use; and (4) by Khania (person who himself works a quarry personally along with his family members and hired labour and does not work as contractor) for Government and Municipality works with permission in writing of the Director of Geology and Mining.

No prospecting licence or mining lease can be granted to any person unless he holds a certificate of approval from the State Government and an income-tax clearance certificate from the Income-Tax Officer of the area where the applicant resides and carries on business. A certificate of approval may be granted to any person who is a citizen of India and who, in the opinion of the State Government, is in a position to employ an efficient prospecting and mining agency or has special experience in prospecting and mining of mineral deposit. No prospecting licence or mining lease in respect of any forest or any river, stream, lake pond, tank, sanctuary, trout water, reserved

water or protected water shall be granted without prior consultation of the Chief Conservator of Forest or the Director of Fisheries, as the case may be.

10.4.1 PROSPECTING LICENCE

The application for a prospecting licence, in case of land in which minerals belong to Government, should be made to the State Government through the DGM accompanied by a fee of Rs.25/- for the first square mile and Rs.5/- for each additional square mile or part thereof. There is no prescribed form for application but it should contain the particulars about the applicant; description illustrated by a map or plan showing the situation, boundaries and area of the land for which licence is sought; the mineral and the period, etc.

The State Government is empowered to grant or refuse the licence. In case of refusal the reason therefor must be recorded and the application fee refunded. The licence should be executed within three months from the date of the order granting the licence. If the licence is not executed within the aforesaid period, the grant order is deemed to have been revoked. Delayed execution may be permitted if the DGM is satisfied that the applicant is not responsible for the delay. Before the licence is issued a sum of Rs.50/- for each square mile or part thereof covered by the licence, is required to be deposited by the applicant as security for the due observance of the terms and conditions of the licence.

If more than one application regarding the same land is received, preference is to be given to the application received first, unless the State Government, for any special reasons, decides to the contrary. Where more than one application is received on the same day, the State Government may grant the licence to any one of the applicants after taking into consideration their experience in prospecting, financial soundness and stability and special knowledge of geology or mining and the technical staff already employed for the work.

10.4.2 MINING LEASE

An application for the mining lease in case of land in which minerals belong to the Government should be made to the State Government through the DGM furnishing the prescribed particulars about the applicant, description illustrated by a map or plan showing the situation, boundaries and area of the land for which lease is sought; name of the mineral; period for which lease is sought, purpose; etc. and accompanied by a fee of Rs.25/-. The applicant is also required to deposit with application, such sum not exceeding Rs.200/- as the State Government may determine for meeting the preliminary expenses.

The application for a mining lease must be disposed of within nine months from the date of its receipt. In case of refusal, the reasons therefor must be recorded in writing and the application fee should be refunded. The lease is required to be executed within six months of the order sanctioning the lease. Before the lease is issued the applicant is required to deposit as security a sum of Rs.200/- for due observance of the terms and conditions of the lease. After the lease is granted, the DGM will make agreements for the survey and demarcation of the area covered by the lease, at the expense of the lessee.

The holder of a prospecting licence, on or before the determination of his licence, has a right to obtain a mining lease or leases over the whole or part of the area covered under the licence. However, the State Government may, for special reasons to be recorded in writing, refuse to grant a mining lease to any such licensee.

If more than one application regarding the same area is received, preference is to be given to the application received first, unless the State Government for any special reason decides to the contrary. Where more than one application is received on the same day, the State Government may grant the lease to any one of such applicants after taking into consideration their experience in mining, financial soundness and stability and special knowledge of geology and mining and the technical staff already employed or to be employed for the work.

Any person holding a certificate of approval may, without obtaining a prospecting licence, apply for a mining lease. Where applications for both a prospecting licence and a mining lease in respect of the same area are received on the same date or different dates within a period of thirty days, the application for a mining lease is to be given preference over the application for a prospecting licence.

The application for renewal of the mining lease must be made before two months of the expiry of the lease accompanied by a fee of Rs.25/-.

Apart from the procedure described above, the rules empower the State Government to lease any mineral deposit by public auction or by inviting tenders.

10.4.3 QUARRYING PERMIT

An application for a quarrying permit duly stamped (Re.1) and containing the specified particulars regarding the applicant; quantity of minor mineral for which the permit is required; name of the mineral, description of the land from which the mineral is to be extracted and the purpose for which the mineral is to be used, should be made to the DGM. The application should be accompanied by a fee of Rs.5/- and if the lands from which the mineral is to be extracted are occupied lands, by a letter from the occupant of such lands to the effect that he has no objection to the extraction of the mineral by the applicant.

The DGM may refuse to grant the permit for reasons to be recorded in writing, in which case the application fee is to be refunded.

Every permit contains a condition that the depth of the pit below the surface shall not exceed 3 feet.

Notwithstanding anything in these rules, the State Government may adopt any other method for leasing out minor mineral deposits in public interest.

10.5 PERIOD AND AREA

A prospecting licence may be granted for a period not exceeding one year. If at the end of this period the DGM is satisfied that a longer period is required to enable the licensee to complete the prospecting, he may renew the licence for one or more further periods not exceeding two years from the date of commencement of the original licence. There is no provision in the rules regarding the maximum area that a person could hold under one or more prospecting licences. The rules, however, lay down that not more than ten prospecting licences may be held by a person at any time.

The period for which a mining lease is granted is one year in the first instance, unless the Government allows a longer period not exceeding five years. The mining lease may be renewed for one or two periods not exceeding the period for which the mining lease was originally granted. Where the applicant applies directly for a mining lease, he may be granted lease over such area as the State Government deems fit. If the applicant is the holder of a prospecting licence, the lease shall cover the whole or such part of the area covered by the licence as the applicant may desire but the State Government may, for any special reason, reduce the area or exclude a portion therefrom. The length of an area under a mining lease shall not exceed four times its width. No lessee, individually or with any person joint in interest with him, can hold, in the aggregate, more than 10 square miles (inclusive of lands taken on lease from private persons) under lease in respect of the minor minerals within the State. The maximum quantity that is permitted to be removed under one permit is 5,000 tons. The permit may also contain a condition regarding the period within which the quantity should be extracted and removed.

10.6 TRANSFER, SURRENDER, TERMINATION

Transfer : The holder of a prospecting licence or mining lease may, with the previous sanction of the State Government, transfer his licence or right, title or interest therein to a person holding a certificate of approval, on payment to the State Government a fee of Rs.50/-. In the case of a mining lease, the transfer is permissible only if the transfer does not result in transgression of the conditions relating to the aggregate holding of 10 sq. miles of the area or the one is to four ratio of length and breadth of the leased area.

Surrender : The lessee may determine the lease at any time by giving not less than 12 month's notice in writing to the State Government. The lessee is also entitled to surrender any part of the leased area, at the time of renewal of the lease.

Termination : The State Government may cancel the prospecting licence and forfeit the whole or part of the security deposit, in case of breach of any of the conditions of the licence.

If the lessee of a mining lease does not allow entry or inspection by the officers authorised by the State Government, the State Government may cancel the lease and forfeit the whole or part of the security deposit. The lease is also liable to be cancelled by the DGM if the lessee ceases to work the quarry for a continuous period of 6 months without obtaining his written sanction. In case of breach of any other condition of the

lease the State Government shall give notice in writing to the lessee asking him to remedy the breach within 60 days from the date of the notice, and if the breach is not remedied within such period, the State Government may determine the lease.

The DGM may cancel any permit for breach of any of the conditions subject to which it was granted.

10.7 RENTS AND ROYALTIES

Prospecting fee : The holder of the prospecting licence is required to pay such prospecting fee as may be fixed by the State Government in each case.

Dead rent : The holder of a mining lease is required to pay for every year, except the first year of the lease, such yearly dead rent within the limits specified in Schedule-II, as may be fixed by the State Government in the lease. The limits prescribed in Schedule-II for all minor minerals are minimum Rs.2/- and maximum Rs.20/- per acre of the land under the lease. If the lease permits the working of more than one minor mineral in the same area, the State Government may charge separate dead rent in respect of each mineral. However, the lessee is liable to pay the dead rent or royalty in respect of each mineral, whichever be higher in amount, but not both.

Surface rent : The lessee is required to pay surface rent for the surface area used by him for the purpose of the mine, at such rate, not exceeding the land revenue and cesses assessable on the land, as may be specified by the State Government in the lease.

Royalty : The lessee is required to pay royalty on the minor minerals despatched from the leased area at the rate specified in Schedule-I. The State Government is empowered to revise the rates of royalty subject to the condition, that the rate of royalty shall not be revised more than once in two years. The rules also stipulated that the rate should not be in excess of twenty per cent of the sale value of the minor mineral at the pit's mouth.

When the lessee is a Government or a quasi-government organization, the rate of royalty is to be fixed by the State Government.

In the case of leases granted by public auction or by inviting tenders, the annual dead rent and royalty rate of the lease are to be determined in the auction or by tender, as the case may be, and may exceed the rates given in the Schedule-I and II.

Notwithstanding anything contained in these rules no royalty shall be charged for minor minerals extracted from :

Engineering Works of the State Public Works Department such as excavation of canals, construction of or widening of roads and foundations of any other work and used on such work;

River or stream beds and used on protection works the same Nallas at and near the same spot.

The rates of royalty presently in force are given below :

Schedule-I (Rates of royalty)

Building stone

Ashlar and sized dimensional stone
Re.1.00 per ton or Re.0.10 per cubic ft.
OR

Average quantity :

in a 3-ton truck	Rs.3.00
in a 5-ton truck	Rs.5.00
carried by one mule, horse or donkey at the option of the lessor.	Re.0.10

Masonry stones, boulder, shingle, etc.
Re.0.25 per ton

OR

Re.1.00 per 100 cubic ft.

OR

Average quantity :

in a 3-ton truck	Re.0.75
in a 5-ton truck	Rs.1.25
carried by one mule, horse or donkey at the option of the lessor.	Re.0.05

Limestone

for lime burning and for other purposes
falling within the definition of minor minerals.
Re.1.00 per ton

OR

Re.4.00 per 100 cubic ft.

OR

Average quantity :

in a 3-ton truck	Rs.3.00
in a 5-ton truck	Rs.5.00
carried by one mule, horse or donkey at the option of the lessor.	Re.0.10

3. Marble	
for lime burning	
Re.1.00 per ton	
	OR
Re.4.00 per 100 cubic ft.	
	OR
Average quantity :	
in a 3-ton truck	Rs.3.00
in a 5-ton truck	Rs.5.00
carried by one mule, horse or donkey at the option of the lessor.	Re.0.10
for other purposes :	
Marble dressed, carved and rough	Re.0.50 per Md.
Marble slabs and tiles	Re.0.25 per Md.
Marble chips, powder and ballast	Re.0.10 per ton
4. Kankar, Bajri, road metal and ballast	Re.0.25 per ton
	OR
	Re.1.00 per 100 cu.ft.
5. Brick earth	Re.0.25 per ton
	OR
	Re.1.00 per 100 cu.ft.
6. Ordinary clay	Re.0.25 per ton
	OR
	Re.0.02 per donkey or Mule load.
7. Ordinary sand used for non-industrial material	Re.0.25 per ton
	OR
	Re.0.02 per donkey or Mule load.
8. Slate and slab when used for building material	Re.0.50 per ton
	OR
	Re.0.02 per donkey or Mule load.
9. Fuller's earth and bentonite	Rs.2.50 per ton

10.8 DISPUTE SETTLEMENT PROCEDURE

Any person aggrieved by an order of the DGM, (i) cancelling or terminating a prospecting licence or mining lease or forfeiting any deposit thereunder in whole or in part, or (ii) refusing to permit transfer of prospecting licence or mining lease, may appeal to the State Government against such order. Where the functions of the DGM have been delegated to any other officer subordinate to him, the aggrieved person may appeal to the DGM. The appeal must be filed within two months of the date of the order. The memorandum of appeal or application for review should be accompanied in every case by a treasury receipt of Rs.25/-. This amount shall be refunded to the applicant if the appeal is successful, whether in whole or in part. Upon receipt of such application, the State Government or the DGM as the case may be, may call for the relevant records and other information from the officer concerned and after considering his explanation may cancel or revise the order against which the appeal has been preferred. The order of the State Government is final.