

Odisha Minor Minerals Concession Rules 2004, as amended upto 2015

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Sairat sources

1. Sources governed under Manual of Tahasil Accounts like fisheries etc
2. Sources governed under OMMC Rules like sand, earth etc called minor minerals

Mines & minerals as per the Mines Act 1952

- **Mines** means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on.
- Involves shaft or excavation
- Mines may be below superjacent ground or above the superjacent ground.
- May involve blasting by use of explosives
- Above superjacent level is known as open cast operation.
- **Superjacent ground** means depth of excavation measured from the highest point to the lowest point is not exceeding six meters

minerals

- Minerals means all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulicing, quarrying or by any other operations and includes mineral oil (natural gas and oil).

Classification of Minerals

- Minerals are classified into two groups, namely
- (i) Major minerals and
- (ii) Minor minerals.
- Amongst these two groups minor mineral have been defined under **section 3 (e) of Mines and Minerals (Regulation and development) Act, 1957**. They include building stones, gravel, ordinary clay, ordinary sand, limestone used for lime burning, boulders, kankar, murum, brick earth, bentonite, road metal, slate, marble, stones used for making household utensils etc.
- Therefore, all other minerals not defined as minor minerals in the said Act are treated as major minerals. They include coal, manganese ore, iron ore, bauxite, limestone, kyanite, sillimanite, barites, chromite, silica sand, fluorite, quartz, sand used for stowing purposes in coal mines and many other minerals used for industrial purposes.

landmark Decision of the Supreme Court

In SLP © No.19628-19629 of 2009 -**Deepak kumar vrs the State of Haryana**, the Supreme court held ON 27.02.2012 that

leases of minor minerals including their renewal for an area of less than 5 hectares be granted by the States/ UTs only after obtaining environmental clearance from the MoEF.

- Thus environmental clearance is mandatory for any mining lease.

Environment Impact Assessment (EIA)

- The EIA Notification, 2006 mandates prior Environmental Clearance (EC) for new projects or activities including expansion, or modernization of existing projects listed in its Schedule.
- The category A projects shall obtain EC from the Central Government (MoEF) and
- category B projects from the concerned State Level Environment Impact Assessment Authority (SEIAA).
- The EIA Notification also prescribes that Category B projects will be further categorized as Category B1 and B2.
- The category B1 projects will require EIA Report for appraisal and to undergo public consultation process (as applicable).
- The Category B2 projects will be appraised based on the application in form-1 accompanied with pre-feasibility report and mining plan

Category of projects

category	Minor mineral	area	Guideline to obtain EC
B2	Brick earth/ ordinary earth	> 5 ha but < 25ha	Form-1 as per appendix to EIA notification 2006 Pre-feasibility report Mining plan
B2	River sand	> 5 ha but < 25ha	In addition to above docs, 1.Manual mining 2.Depth up to 3 mtr/ water level, whichever is less 3.No mining in the safety zone of the bridge/embankment 4.No in-stream mining 5.Transport vehicle will be covered by taurpoline 6.Ec valid for 5 years
B1	Brick earth/ ordinary earth	Borrow area within 500 mtr/ total area exceeds 5 ha	mining will be allowed if Cluster EC
B1	River sand	within 1 km/ Total area equals or exceeds 25 ha	Cluster EC

Mode of Settlement of sources

- Office Memorandum of Government of India, Ministry of Environment and Forests, No.J-13012/12/2013-IA-II(I), dated 24.12.2013 and OM No L-11011/47/2011-IA.II(M) dated 24.06.2013 clarifies that **the activities of borrowing/ excavation of brick earth and ordinary earth upto an area less than 5 ha** may be categorized as B2. Category, if the activity associated with borrowing/ excavation for the purpose of brick manufacturing, construction of roads and embankments etc. shall not involve blasting and other conditions.
- The Brick earth/ ordinary earth mining projects with mining lease area more than 5 ha but less than 25 ha and all other minor minerals with mining lease area of less than 25 ha, except river sand projects will be appraised as Category B2 projects.

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- In case the mining lease area is likely to result in a cluster situation, i.e if the periphery of one lease area is less than 500 mtr from the periphery of another lease area and the total lease area equals to or exceeds 25 ha, the activity shall become Category B1 Project under the EIA Notification 2006.
- In such cases, mining operation in any of the mine lease areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

- No river sand mining project with mine lease area less than 5 ha, may be considered for granting of EC.
- The river sand mining projects with mining lease area equal to or more than 5 ha but less than 25 ha will be categorized as B2.
- In case the mining lease area is likely to result in a cluster situation, i.e if the periphery of one lease area is less than 1 KM from the periphery of another lease area and the total lease area equals to or exceeds 25 ha, the activity shall become Category B1 Project under the EIA Notification 2006.
- In such cases, mining operation in any of the mine lease areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

Amendment to OMMC Rules

Consequent upon the above order and subsequent guidelines issued by Ministry of Environment and Forest(MoEF) , Odisha Minor Mineral Concession Rules, 2004

amended as OMMC(Amendment) Rules,2014, wef 16.9.2014.

Again the same was amended on 10.07.2015.

Main provisions of the Rules

- **Mining Plan** in relation to quarry lease means a plan as prepared by the recognized person in the prescribed form and approved by the authorized officer.
- **Authorized Officer** means Director Mines or Director Geology or any officer of the Directorate of Mines or Directorate of Geology duly authorized by the Government in writing for the purpose.
- **Recognised person for quarry lease** means a person granted recognition by the Authorized Officer for preparation of mining plan in respect of quarry lease.

Main provisions of the Rules

- Chapter for **Public Auction deleted**.
- Rule 27-Now no quarry lease shall be granted for a period less than 5 years on such terms and conditions as may be specified by Competent Authority.
- **Mining plan as pre-requisite** to the grant of quarry lease.
- Competent Authority specified in Schedule-IV

Mining plan

- The recognised person shall prepare the mining plan in form ZB and submit to Authorized officer, who will approve within 30 days
- The mining plan shall contain:
- The plan of the quarry leasehold area with nature and extent of minerals
- Details of mineral reserve
- Extent of manual mining
- Plan of the area showing natural water, forest cover limits of reserve etc
- Annual programme and plan for excavation for 5 years
- A progressive mine closure plan

Procedure for lease application

- Notice inviting application for auction by Competent Authority – specify
 - minimum guaranteed quantity of the minor minerals to be extracted in a year by the applicant
 - minimum amount of additional charge payable for the same
 - cost of preparing and obtaining EC
- Publish two daily newspapers, one local other state level
- At least 15 days prior notice for application

Application for source

- In form-J in triplicate
- Treasury challan of Rs.1000/- as application fee(non refundable)
- Affidavit that no mining due is outstanding
- Proof of payment of earnest money equal to 5% of the additional charge and royalty payable for one whole year for the minimum guaranteed quantity for one year
- A solvency certificate or nbank guarantee valid for 18 months for the amount of addl charge offered and the royalty payable for the minimum guaranteed quantity
- list of immoveable properties from Revenue authority
- Quarry lease to the highest bidder of additional charges
- If equal, draw of lots

Procedure

- Intimate selected bidder in Form-JA with terms and conditions
- within 15 days, Selected bidder will convey his acceptance and to deposit an amount which shall be calculated in such a way that it shall be equivalent to one-fourth of the total amount of royalty and additional charge and the amount of contribution payable to the **District Mineral Foundation** on the annual minimum guaranteed quantity, taken together, reduced by the amount of earnest money, which, alongwith the earnest money, shall be held as, interest-free security deposit.

The selected bidder shall also deposit the costs of obtaining the mining plan and environmental clearance approvals in case those have been obtained by the Competent Authority (non-refundable) before executing the lease deed.

(7) In the event of default by the highest bidder, the Competent Authority may issue intimation to the next highest bidder who shall then be required to convey his acceptance and to make the security deposit calculated in the manner mentioned in sub-rule(5).

(8) If the second highest bidder does not convey the acceptance within the time stipulated for such acceptance, fresh notice inviting application with the approval of the next Higher Authority.

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8-a) Immediately after compliance of the selected bidder, the earnest money of the unsuccessful bidders shall be refunded and the bank guarantees, if any, furnished by them, shall stand discharged.

(8-b) The selected bidder shall execute mining lease within **three weeks** from the date of intimation of his selection, if the approval of the mining plan and environmental clearance has been obtained before auction, and in other cases, **four months** from the date of intimation failing which the intimation shall stand cancelled and the security deposit shall stand forfeited:

Provided that the Controlling Authority may, for genuine and sufficient reasons, extend the said period, if it is satisfied that the delay in execution of lease deed is not due to reasons attributable to the selected bidder,

CONTINUED

- “(10) The minimum amount of additional charge to be quoted shall be such as the Competent Authority, in consultation with the Controlling Authority, decide and specify in the notice inviting applications for auction.”
- Collector is competent to cancel with reasons
- If selected bidder dies after lease deed, then legal heir.
- Competent Authority may cause the mining plan prepared and approved
- For clusters, Competent authority to prepare mining plan
- Cost to be recovered from the bidder

Environment Management Fund

- 5% of the royalty to the fund at State level
- The fund shall be utilised for restoration, repair common facilities for communities etc

District Mineral Foundation

27-F Liability for payment of royalty, additional charge and amount of contribution payable to the District Mineral Foundation.-

- The lessee shall be liable to pay royalty, additional charges and amount of contribution payable to the District Mineral Foundation **in advance on quarterly basis** on or before the first day of the beginning of the quarter, i.e. before the end of the months of March, June, September and December, on a pro-rata basis on the annual minimum guaranteed quantity of minor mineral even if the actual extraction falls short of such quantity:
- Provided that the amounts paid in excess of the actual extraction during a particular financial year may be adjusted against the amounts payable in respect of extraction in excess of the minimum guaranteed quantity in the subsequent period of the same financial year.

- In case the actual extraction exceeds the minimum guaranteed quantity, such mineral may be removed from the lease area only after payment of additional charge, royalty and contribution to the District Mineral Foundation on pro-rata basis.
- The royalty, additional charge and contribution to the District Mineral Foundation for the period upto commencement of the next quarter shall be paid on a pro-rata basis before the execution of lease deed.

- For the purpose of determination of minimum guaranteed quantity, in the cases where the lease has been executed on or after the 1st April, the minimum guaranteed quantity for the first financial year shall be equal to the annual guaranteed quantity divided by twelve and multiplied by the number of months remaining in the first year of the lease, treating part of any month as full month.

Meaning of royalty, dead rent

- **Royalty**: In accordance with the provisions of section 9 of the Mines and Minerals (Regulation and Development) Act, 1957 royalty is payable for the quantity of minerals removed from the lease area or consumed by the lessee, Rates of Royalty varies from mineral to mineral and can be enhanced or reduced by Central Government in case of major minerals once in 3 years as per section 9 A (2) of MM (DR) act 1957 and by State Government in case of minor minerals as per section 15 (3) of the MM (DR) Act 1957. (schedule – II of MM (DR) Act 1957 and schedule of minor mineral rules).
- **Dead Rent** : Dead rent is the rent fixed for mines without considering the fact whether the mine is profitable or not. It is mostly fixed in a mineral lease. This rent must be paid whether or not minerals are being extracted from the mines. Even though mining comes under the category of one of the most hazardous occupation and expectation of profit is limited, mining leases fix dead rents on mining sites.
- When mine is temporarily closed, the lessee has to pay dead rent at the rate prescribed in Mines and Minerals (Regulation and Development) Act, 1957 in case of major minerals and as per minor mineral extraction rules in case of minor minerals. The rates can be enhanced or reduced once in three years. A lessee is liable to pay royalty or dead rent whichever is higher and not both.
- **Surface Rent** : A lessee is liable to pay for the surface area used by him for the purpose of mining operations, surface rent and water rate at such rate not exceeding land revenue water and cesses assessable on the land.

R-28- Liability for payment of royalty, dead rent etc

- All lessees shall pay royalty, dead rent, surface rent and fees for compensatory afforestation.
- Every year dead rent and surface rent @ given in schedule-I for all areas in the lease deed.
- Rate of dead rent and royalty be revised by amendment of schedule in every three years

CONDITIONS OF QUARRY LEASE (R-29)

- lessee Shall pay surface rent within a fortnight of the execution of lease deed for the remaining period of the year and thereafter shall yearly rent an or before 15th January every year.

- Lessee shall pay dead rent in advance, within a fortnight and thereafter pay annual dead rent by 15th January every year. Advance dead rent paid shall be adjusted to the amount of royalty he is liable to pay.
- Quarrying shall start within 3 months of deed. If fails to work upon continuously for 6 months, the lease may be cancelled.
- If any other mineral found during quarrying, fresh lease or permit for same minerals required
- If mineral discovered not minor mineral, no permit.

Conditions of lease

- No quarry is allowed-
- Within 100 mtrs of railway line, NH, State highway
- Within 50 mtrs from tank, canal other roads etc
- State Govt has right to construct road, rail, canals, electricity lines etc within the mining area on 60 day notice
- Lessee shall keep marking the boundary
- Lessee shall obtain permission from forest Deptt to carry on operation in forest area
- Lessee shall keep correct account and allow inspection
- Keep up environmental protection
- If dues remain unpaid for one month beyond the date, lease may be determined

QUARRY PERMIT (R-30-34)

- Competent authority can give quarry permit.
- No quarry permit to other than state agencies or project proponents for public purposes
- State agency shall mean any Deptt of the State or central Govt or company/corporation under control of Govt.
- Project proponent for public purposes shall mean any firm executing Govt projects.
- Period o permit- 3 months
- Quantity not exceeding one thousand tones subject to payment of royalty, surface rent and cost of afforestation
- Depth not more than 6 mtrs below surface
- Permit is not transferable
- If mineral removed in excess, the Permit holder shall be punished under IPC
- After removal, surrender the permit
- Competent authority to maintain Register of permit in Form-P

The Schedules

- Schedule-I- rate for Surface rent and dead rent
- Schedule-II-Rate of royalty
- Schedule-III- mineral wise Controlling Authority
- Schedule-IV- Jurisdiction and competent authority

Further Clarifications

- Steel & Mines Dept has notified a number of Qualified Recognised Persons for preparation of Mining Plan
- Steel & Mines Dept has notified Authorised Officers area-wise
- SEIAA re-constituted by F&E Dept
- Inter-state transport of minor minerals not permitted
- If the source is in Forest area- DFO is the competent Authority
- Sources, put to auction prior to commencement of OMMC (Amendment) Rules 2014 but not operationalised due to delay in obtaining EC, may be allowed for one year from date of EC if the source not auctioned for the current year and EC obtained during the said year

- Sources, given on lease prior to commencement of OMMC (Amendment) Rules 2014 for certain period, the mining plan and EC shall be considered to be given for that period.

THANK YOU