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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
COMMERCE & INDUSTRIES DEPARTMENT
WEST BENGAL MINERAL RULES, 2002

PART—I

No. 423/CI/O/MINES-RULE/001/02/M1

Dated 08-11-2002

NOTIFICATION

In exercise of the power conferred by Section 23C of the Mines and Minerals (Development and Regulation) Act, 1957, the Governor is pleased hereby to make the following rules :—

1. Short title extent and commencement :—

- (1) These rules may be called the West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002;
- (2) They shall extend to the whole of West Bengal;
- (3) They shall come into force from the date of its publication in the Official Gazette.

2. Definitions :—

In these rules unless the context otherwise requires :—

- (a) “the Act” means the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) ;
- (b) “authorized officer” means an officer authorized by the State Government, by notification in the Official Gazette, to perform functions under these rules and for such area as may be specified in the notification ;
- (c) “carrier” means any mode of conveyance or facility by which mineral is transported from one place to another and includes mechanised device, person, animal or cart. Person-in-charge of a carrier shall normally mean the driver of the said carrier if no other person has been designated as such by the owner of the carrier or the mineral under transportation ;

- (d) "check post/gate" means any permanent or temporary structure properly manned by personnel to verify the documents relating to mining lease, quarry permit, reconnaissance permit and prospecting licence and also the minerals carried in transports;
- (e) "form" means a form set forth in the Schedule to these rules ;
- (f) "illegal mining" means any mining activity done in violation of Section 4 of Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) ;
- (g) "illegal transportation" means transportation of any mineral without any valid permit/challans issued by the authorised officer ;
- (h) "illegal storage" means the storing of any mineral without any valid lease/licence/permit issued by the appropriate authority ;
- (i) "prescribed" means prescribed by these rules or rules made under the Act ;
- (j) "research work" means any work done for beneficiation and upgradation of the mineral and for examining its suitability for utilization in the industry, for the purpose of scientific study without any commercial motive ;
- (k) "scientific test" means any test conducted for chemical or mineralogical analysis of mineral and assessment of its chemical and mineralogical constituents and properties for the purpose of scientific study without any commercial motive ;
- (l) "transit pass" means a pass issued by the officer authorized by the State Government for lawful transportation of any mineral, raised in accordance with the provisions of the Act and rules made thereunder, by a carrier ;
- (m) "transportation" means carrying of minerals/mineral products from one place to another by motorized or non-motorised vehicle or by headloads ;
- (n) "weigh bridge" means mechanized system of weighing minerals carried by transports ;
- (o) The expressions "minerals", "mining lease", "prospecting licence", "reconnaissance permit" have the same meaning as assigned to them in the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and "quarry permit or other mineral concessions" in respect of minor minerals have the meaning assigned to them in the West Bengal Minor Mineral Rules framed by the State Government under Section 15 of the Act ;
- (p) Unless the context otherwise requires, words and expressions used in these rules but not defined shall have the same meaning as assigned to them under Section 3 of the Act.

3. Prohibition :—

(1) No person shall transport or carry or cause to transport or carry any mineral by any means from the place of raising to another place without being in possession of a valid transit pass issued by the competent authority under the rules.

4. Transport of Minerals :—

(1) For transportation of any mineral to any place the holder of mining lease shall make an application in Form A in duplicate to the authorized officer for issue of transit pass ;

- (2) All despatches of mineral(s) by the holder of a mining lease or quarry permit by a carrier shall be accompanied by a challan or transit pass in duplicate in Form B. A triplicate copy will be retained at the place of loading/stores. The person-in-charge of the carrier shall produce the challan or transit pass at the check-post enroute or on demand by any competent authority or such other officer authorized in this behalf.

Provided that in case of transport of mineral by holder of prospecting licence for test purposes or transport of mineral purchased in an auction, in addition to transit pass, a special permit by the concerned authority or authorized auctioneer, as the case may be, shall suffice;

- (3) The holder of mining lease or quarry permit or any other mineral concession shall use challan/transit passbook issued by the Officer authorized by the State Government in this behalf. The challan or the transit pass shall be in triplicate, machine numbered with Book No. and Serial No. of the pass obtainable at a prescribed cost. The driver or person-in-charge of the carrier shall, while transporting the minerals and till he reaches the destination, carry with him challan or transit pass and a consignment note, delivery note, invoice or any other document of like nature ;
- (4) All carriers carrying mineral shall stop at the check-posts/gates and proceed after having been cleared by the check-posts/check-gate authorities who shall make necessary endorsement on the original copy of the transit pass/challan held by the person-in-charge of the carrier. The duplicate of the pass/challan will be retained at the check post/gate ;
- (5) Every holder of mining lease or quarry permit shall provide all reasonable facilities to the authorized officer in this behalf to inspect, verify and check the stocks and accounts of minerals and any other documents pertaining thereto ;
- (6) A challan or transit pass issued by the authorized officer and duly certified by him for inter-state movement shall be allowed by another State .

5. Establishment of check-posts and barriers and weighment and inspection of minerals in transit :—

- (1) If the State Government considers it necessary so to do with a view to checking the transport and storage of minerals raised without lawful authority, it may direct the setting up of check-post or erection of barrier or both at any place or places within the state by an order in writing.

Provided that the setting up of a check-post or barrier shall be notified in the Official Gazette.

Provided further that the State Government may by a notification prescribe the modalities for setting up of check-posts or gates and their management;

- (2) Any officer authorized by the State Government in this behalf shall be attached to one or more check-posts and may check any carrier carrying mineral at any place and the person-in-charge of the carrier shall furnish valid challan or transit pass in the prescribed form and other particulars such as bill or receipt or delivery note on demand by that officer ;
- (3) At every check-post or barrier set up under sub-rule (1) or at any other place when so required by the officer-in-charge of the check-post or the barrier or any other authorized officer, the person-in-charge of the carrier shall stop the same for examination of the mineral in transit and also inspection of all records and documents relating to minerals in possession of such person-in-charge of the carrier. The person-in-charge of the carrier shall, if so required by officer-in-charge of the check-post or gate or any other authorized officer, furnish his name and address as also that of the owner of the carrier and the name and address of both the consignor and the consignee.

After checking the mineral and carrier the officer-in-charge of the check-post or gate or any other authorized officer as aforesaid shall put his signature on the challan or transit pass with date and time ;

(4) If the officer-in-charge of the check-post or any other authorized officer has reasons to believe that the mineral is not covered by the challan or transit pass, such officer, or any other authorized officer, shall recover from the person-in-charge of the carrier the value of the mineral at the rates specified in the Official Gazette ;

(5) (i) The officer-in-charge of the check-post or gate or the authorized officer shall have the power to seize the mineral along with the carrier in transit, the despatch of which is not covered by a valid challan or transit pass, if the person-in-charge of the carrier refuses to make the payment provided for in sub-rule (4) ;

(ii) The officer-in-charge of the check-post or gate or the authorized officer shall give a receipt of such mineral and carrier seized by him to the person from whose possession or control it is seized ;

(iii) The officer-in-charge of the check-post/gate or any authorised officer may direct the person-in-charge of the carrier to carry the mineral so seized to the nearest police-station.

Provided that if the person-in-charge of the carrier refuses to carry the mineral and the carrier to the nearest police-station the officer-in-charge or any authorized officer empowered may seize the carrier and take the same in his possession;

(iv) Whenever a carrier together with the mineral is seized under this sub-rule by an authorized officer, such officer shall give an option to the owner or person-in-charge of the carrier to pay an amount equal to the value of the mineral carried in lieu of such seizure. In case of failure of the owner or person-in-charge of the carrier to exercise such option, suitable legal action shall be initiated against him by any officer authorized in this behalf.

6. Storage of minerals :—

(1) Holder of a mining lease/quarry permit shall inform the authorized officer about the location where he would like to store their minerals. The details of such location shall be submitted at least fifteen days prior to the commencement of mining operation by the lessee/permit holder ;

(2) The lessee/permit holder shall maintain proper stock register(s) of the storage of minerals in the stores so indicated. The register should indicate inter alia the following :

(a) capacity of stores (in M.T.) ;

(b) area of the stores (in sq. mtr.) ;

(c) actual stock of minerals held, categorywise;

(d) daily status of entry of minerals in the stores;

(e) daily status of exit of minerals from the stores;

(f) daily opening and closing balances.

(3) The lessee/permit holder shall also maintain bin card in respect of each mineral kept in the stores ;

- (4) An authorized officer of the State Government may at any time visit the stores and inspect the minerals kept in the stores with reference to the entries maintained in the registers/bin card ;
- (5) The lessee/permit holder shall allow the authorized officer to make inspections of minerals kept at the stores. Any obstruction to the inspection shall be treated as an obstruction to the duties of a public servant and shall be subject to penal action ;
- (6) After inspecting/checking minerals, the authorized officer shall record the visit/inspection on the relevant page(s) of the stock register ;
- (7) The authorized officer shall have the power to seize any mineral the record of which is not found in the stock register. A seizure list will be prepared by him and a copy thereof shall be given to the lessee/permit holder or stores-in-charge with appropriate acknowledgement;
- (8) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under this rule shall be cognizable;
- (9) Any mineral seized under sub-rule (7) above, shall be liable to be confiscated by an order of the court competent to take cognizance of the offence and shall be disposed of in accordance with the directions of the said court.

7. Exemption :—

(1) The Government may, by notification in the Official Gazette exempt any person or class of persons from the purview of these rules, provided mineral is stored/carried for the purpose of scientific test and research work only.

8. Appeal :—

- (1) Any person aggrieved by any order made by the authorized officer in this behalf in exercise of the powers conferred on it by these rules may within thirty days of the date of communication of the order to him appeal to the State Government in Form C ;
- (2) Every application for appeal shall be accompanied by a fee of Rs. 100/- to be deposited under appropriate Head of Account ;
- (3) The State Government may confirm, modify or set aside the order passed as it may deem just and proper after giving the appellant a chance to present his case.

FORM—A

[See Rule 4(1) of the West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002]

Application for Issue of Transit Pass/Challan

To

.....

Received on.....

.....

Sir,

I/We have been granted mining lease/quarry permit by the appropriate authority for extraction of (name of mineral). I/We may be granted transit pass/challan in triplicate in terms of the Rule 4(2) of the West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002.

The required particulars are given below :—

- | | |
|--|---|
| (i) Sanction order No. | — |
| (ii) Period of validity | — |
| (iii) District | — |
| (iv) Police station | — |
| (v) Mouza | — |
| (vi) J. L. No/s. | — |
| (vii) Plot No/s. | — |
| (viii) Area (Acre/Hectare) | — |
| (ix) Target of extraction (M.T./Cft./Cu.M.)— | — |
| (x) Name of mineral | — |

- (xi) Name of person to whom the mineral is dispatched —
- (xii) Number of transit passes/challans required —

I/We do hereby declare that the particulars furnished above are correct and true to my/our knowledge.

Place :

Yours faithfully

Signature of the Mining Lease/
Quarry Permit Holder

FORM—B

[See Rule 4(2) of the West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002]

TRANSIT PASS/CHALLAN

To
 Dated day of 20

Sir / Madam,

With reference to your application dated for issue of transit pass/challan for carrying of minerals, a book containing 50 pages (in triplicate) of transit pass/challan is issued in respect of mining lease/quarry permit issued in your favour by the appropriate authority under order No. dated for extraction of (name of minerals) from the undermentioned leasehold/permit area :—

- (i) District —
- (ii) Police station —
- (iii) Mouza —
- (iv) J. L. Nos. —
- (v) Plot Nos. —
- (vi) Area —
- (vii) Target of extraction —

This transit pass/challan is issued for transport of the above-mentioned minerals from the place of extraction to (name of the place of destination).