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PART III

Laws, Regulations and Rules passed thereunder.

GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT—INDUSTRIES AND COMMERCE
DEPARTMENT

Notification

Jammu, 11th January, 2017.

SRO-3.—In exercise of the powers conferred by sections 9B, 15 and 15A of the Mines and Minerals (Development and Regulation) Act, 1957 (Act No. 67 of 1957), the Government hereby makes the following rules, namely :—

1. *Short title, extent and commencement.*—(1) These rules may be called the Jammu and Kashmir District Mineral Foundation (Composition, Contribution, Functioning, Funding and Trust) Rules, 2017.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. *Definitions.*—(1) In these rules, unless the context otherwise requires,—

- (a) “Act” means the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957) ;
- (b) “Affected areas” means the areas which are affected by mining related operations ;
- (c) “Affected persons” means the persons residing in affected areas ;
- (d) “Auditors” means the Auditor/Chartered Accountant appointed by the Trustees and shall include the Accountant General of the State or other Auditors nominated by the Settlor ;
- (e) “Beneficiaries” means the person and areas affected by mining ;
- (f) “Board” means the Board of Trustees of the Trust established under these rules ;
- (g) “Chairperson Executive Committee” means the Chairperson of the Executive Committee of the District Mineral Foundation Trust ;
- (h) “Chairperson Governing Body” means the Chairperson of the Governing Body of the District Mineral Foundation Trust ;

- (i) “Contribution Fund” means the Contribution Fund to be collected from the holders of—
 - (a) mining lease or a prospecting licence-cum-mining lease under the provisions of sub-section (5) of section 9B of the Act ;
 - (b) mining lease under the provisions of sub-section (6) of section 9B of the Act ; and
 - (c) minor mineral concession under the provisions of section 15A of the Act.
- (j) “Department” means the Department of Geology and Mining, Jammu and Kashmir ;
- (k) “District Magistrate” means the head of the Revenue Administration at the District level whether designated as Deputy Commissioner or Collector ;
- (l) “District Mineral Foundation” means a trust established in terms of sub-section (1) of section 9B of the Act ;
- (m) “District Panchayat” means and includes District Council or any other authority entrusted with the similar functions in the areas under the Schedules of the Constitution of Jammu and Kashmir/India ;
- (n) “Executive Committee” means the Executive Committee of the Trust ;
- (o) “Financial Year” means a Year beginning on 1st of April and ending 31st of March of the following year or part period thereof ending on 31st March ;

- (p) “Government” means the Government of Jammu and Kashmir ;
- (q) “Governing Body” means the Governing Body of the Trust ;
- (r) “Member Executive Committee” means the member of the Executive Committee of the Trust ;
- (s) “Member Governing Body” means the member of the Governing Body of the Trust ;
- (t) “The Trust” means the **(Anantnag, Pulwama, Kulgam, Shopian, Srinagar, Budgam, Ganderbal, Leh, Kargil, Baramulla, Kupwara, Bandipora, Jammu, Kathua, Samba Rajouri, Poonch, Udhampur, Reasi, Doda, Kishtwar, Ramban)** District Mineral Foundation Trust created by the Settlor.

(2) Words and expressions used in these rules, but not defined, shall have the same meaning as respectively assigned to them in the Mines and Minerals (Development and Regulation) Act 1957 (Act 67 of 1957) and rules made thereunder.

(3) Words in the singular shall include words in the plural and words in the plural shall include the singular. Words importing the masculine gender shall include female and neutral gender.

3. Composition of District Mineral Foundation and its office.—

- (1) The District Mineral Foundation shall consist of following persons :—
- (a) District Magistrate/Dy. Commissioner concerned as the Chairperson (ex officio) ;
 - (b) Asstt. Commissioner Development, Member (ex officio) ;

- (c) Chief Medical Officer, Member (ex officio) ;
- (d) Superintending Engineer (PWD), Member (ex officio) ;
- (e) District Forest Officer, Member (ex officio) ;
- (f) District Panchayat Officer, Member (ex officio) ;
- (g) Asstt. Labour Commissioner of the District, Member (ex officio) ;
- (h) District Social Welfare Officer, Member (ex officio) ;
- (i) Chief Agriculture Officer, Member (ex officio) ;
- (j) Officer Incharge, District Mineral Office, Member Secretary (ex officio) ;
- (k) two representatives of the mineral concession holder, for a term not exceeding 02 years at a time but not more than two times to be nominated by the Chairperson.

(2) The Office of District Mineral Foundation shall be situated at the concerned District Magistrate/Dy. Commissioner's Office.

4. *Composition of the Governing Body.*—The Governing Body shall consist of the following members namely :—

- (a) Minister Incharge, Industries and Commerce Department (Chairperson ex officio) ;
- (b) Minister Incharge, Forest Department (Member, ex officio) ;
- (c) Minister Incharge, Rural Development and Panchayat Raj (Member, ex officio) ;
- (d) Minister Incharge, Public Works (Member, ex-officio) ;

- (e) Administrative Secretary, Industries and Commerce Department (Member Secretary, ex officio) ;
- (f) Administrative Secretary, Planning and Development Department (ex officio) ;
- (g) Director, Geology and Mining Department (Member, ex officio) ;
- (h) Special Invitees having knowledge and experience in Mineral Administration/Exploration to be invited by the Chairperson.

5. *Composition of the Executive Committee.*—(1) The Executive Committee for each Division shall consist of the following :—

- (a) Divisional Commissioner Kashmir/Jammu, Chairperson (ex officio) ;
- (b) Director Geology and Mining (Member Secretary, ex officio) ;
- (c) Director Health Services Kashmir/Jammu (Member, ex officio) ;
- (d) Director Rural Development, Kashmir/Jammu (Member, ex officio) ;
- (e) Chief Engineer, PWD, Kashmir/Jammu Member (ex officio) ;
- (f) Special Invitees having knowledge and experience in Mineral Administration/Exploration to be invited by the Chairperson.

6. *Functions of the Governing Body.*—(1) The Governing Body shall lay down the broad policy framework for the functioning of the Trust and shall review its working.

(2) The Governing Body shall approve the annual plan and annual budget of the trust upon the recommendations of the Executive Committee and it shall meet at least twice in a year.

7. *Functions of the Executive Committee.*—(1) The Executive Committee shall manage, administer and supervise the trust and shall monitor and review the expenditure of the trust fund at regular intervals.

(2) The Executive Committee shall while discharging its functions, follow the policy framework and the directions of the Governing body from time to time.

8. *Constitution of a fund under the trust.*—(1) The Government shall set up a fund under the Trust to be called as the District Mineral Foundation Trust Fund which shall be managed by the Executive Committee.

(2) The Trust Fund shall receive Contribution Fund as per the contributions defined in these rules.

9. *Contribution to Trust Fund.*—(1) The Trust shall have power to open and operate a joint Bank account in its name at any Branch of Jammu and Kashmir Bank Ltd.

(2) The Trust shall communicate the particulars of its Bank account to the Government for the purpose of payments of Contribution Fund.

(3) The holders of mineral concessions granted under the Act and rules made thereunder shall make payments for contribution to the trust fund of amount payable to the State Government simultaneously with payments of the royalty.

(4) The State Government shall deposit the amount collected from the such payments into the bank accounts of the Trust.

(5) The Deposits referred to in sub rule (4) by the State Govt. into the designated bank account of the trusts shall be made as soon as possible but, not later than 20th day of the succeeding month in respect of the amount collected in any particular month.

(6) The responsibility of collection and depositing the amount so collected in the trust fund and maintaining necessary accounts to be shared with Governing Body shall be that of the State Government.

10. *Bank Account.*—(1) The bank account (s) of the Trust shall be opened in its own name at Jammu and Kashmir Bank and operated jointly by the chairperson and the member Secretary or any other member of the Executive Committee or any Officer as may be authorized by the Executive Committee.

(2) All payments of the Trust, except contingent expenditure not exceeding Rs. 50,000/- and such statutory dues or utility charges for which e-payment facility is not available, shall only be made electronically to the bank account of the recipient.

(3) The amounts of the Fund not required for immediate disbursement may be deposited in fixed deposits of flexi- deposits, following a transparent and competitive invitation of offers from eligible scheduled banks.

11. *Amount payable by the mineral Concessionaires to the Trust* :—(1) All holders of major mineral Concessions shall, in addition to royalty, pay to the respective District Mineral Foundation, an amount equivalent to such percentage of royalty as may be prescribed by the Central Government under sub-section (5) or sub-section (6) of section 9B of the Act as the case may be.

(2) Out of the total amount of royalty realized from the holders of Minor Mineral Concessions, 10% shall be deposited/paid towards the respective trust by the department.

12. *Objects and Functions of the trust.*—(1) The Contribution Fund of the Trust may be utilized for undertaking activities under Pradhan Mantri Khanij Kshetra Kalyan Yojana (PMKKKY) for the interest and benefit of affected persons in the affected areas subject to such guidelines as may be issued by the Governing Body from time to time and may be utilized for activities including, but not limited to :—

- (a) Provision of amenities and infrastructure like water supply, sanitation, connectivity communications, irrigation, electricity supply, health care, education, housing etc. ;
- (b) Strengthening of social services like education, healthcare, social security, social safety, net skill upgradation training etc. ;
- (c) Afforestation and environmental improvement ;
- (d) Projects for livelihood support, income generation and economic activities ;
- (e) Improvement of Institutional mechanism for delivery of public services ;
- (f) Establishment and maintenance of District Mineral/Member Secretary Office and allied infrastructure in the respective District ;
- (g) Such other activities as may be specified by the Governing Body to be the permissible activities ;

13. *Management of the Trust.*—(1) The overall control, periodical reviews and policy directions of the trust shall vest with the Governing Body.

(2) The Executive Committee shall manage, administer and supervise day to day activities of the Trust.

(3) The Executive Committee shall formulate and finalize the schemes for delegation of final powers with the approval of the Governing Body.

14. *Committees.*—(1) The Executive Committee may constitute committees or sub committees to undertake such tasks that may be assigned or delegated by the Executive Committee to such Committee or sub-committees.

(2) The Committee or sub-committee constituted under sub-rule (1) shall devise its own procedure in the discharge of the duties and responsibilities under these rules and in exercise of such powers and functions as may be specified by the Executive Committee.

15. *Monitoring of projects.*—(1) The trust shall monitor implementation of projects either by itself or by engaging any Govt. Entity.

(2) For the purpose of sub-rule (1) the trust may devise its own procedure consistent with the Act and rules made thereunder.

16. *Meeting of the Governing Body.*—(1) The Governing Body shall meet at least once in a year.

(2) The meeting(s) of the Governing body shall be presided over by the Chairperson of the Governing Body and in the absence of the Chairperson of the Governing Body, the ex officio members of the Governing Body may elect an officiating Chairperson from among themselves.

(3) All decisions or resolutions including circular resolutions of the Governing Body shall be made or adopted by consensus.

(4) In case of any disagreement or dissent the ruling of the Chairperson of the Governing Body and the majority shall be final.

17. *Meetings of the Executive Committee.*—(1) The Executive Committee shall meet at least twice in every three months.

(2) The meetings of the Executive Committee shall be presided over by the Chairperson, Executive Committee and in the absence of the Chairperson, Executive Committee ; the ex-officio Members of the Executive Committee may elect an officiating Chairperson, from among themselves.

(3) The meetings of the Executive Committee may be either physical or virtual or by circulation or by combination of both :

Provided that the meeting by circulation shall not apply for adoption of accounts of the Trust, recommendations to the Governing Body for approval of Annual Plan, Annual Budget and Annual Report of the Trust.

(4) All decisions or resolutions including circular resolutions of the Executive Committee shall be made or adopted by a majority of votes of the members of the Executive Committee present in the voting.

(5) In case of equality of votes the Chairperson, Executive Committee, or in his absence, the member presiding over such meetings as the Chairperson shall have a casting vote :

Provided that no member shall vote or take part in the discussion of any matter coming up for consideration at a meeting of the Executive Committee or any of its committees or sub-committees, if the matter is one in which such member has any direct, indirect or pecuniary interest.

18. *Notice and agenda for meeting of the Governing Body and Executive Committee.*—(1) The chairperson of the Governing Body with the consent of the Chairperson, Governing Body, shall convene the meeting of the Governing Body by giving a minimum fifteen days notice to all the members ;

(2) The Chairperson or the Member Secretary of the Executive Committee, with the consent of the Chairperson shall convene the meeting of the Executive Committee by giving a minimum of seven days notice to all the Members.

19. *Quorum for meeting.*—(1) The quorum for any meeting of the Governing Body shall be five (05), excluding the special invitees.

(2) The quorum for any meeting of the Executive Committee, including a virtual meeting ; shall be four (04), excluding the nominated members.

20. *Powers, Duties and Responsibilities of the Member Secretary of the Executive Committee.*—(1) There shall be a Member Secretary of the Executive Committee to discharge the functions of the Executive Committee.

(2) The Member Secretary of the Executive Committee shall,—

- (a) administer and manage the Trust subject to the superintendence, control and direction of the Executive Committee ;
- (b) exercise such administrative and financial powers as may be delegated to him by the Executive Committee or as may be assigned by the Chairperson, Executive Committee.

(3) The Member Secretary of the Executive Committee shall have the following duties and responsibilities, without prejudice to the generality of sub-rules (2) and (3) namely—

- (a) To cause the preparation of the Annual Plan and related Annual Budget and submit them to the Executive Committee for consideration and recommendation to the Governing Body ;
- (b) To ensure that due diligence has been exercised before considering proposals or projects to be undertaken by the Trust in accordance with the practices, procedure, rules or directions of the Executive Committee ;

- (c) To ensure that the activities of the Trust are being conducted in accordance with the annual plan and related annual budget ; and
- (d) To submit to the Governing Body, the approved annual plan and related annual budget for each financial year to the Government, by the end of January of previous financial year.

21. *Annual Plan.*—(1) The Member Secretary of the Executive Committee shall, at the beginning of each financial year, cause preparation of plans for short term projects and long term projects proposed to be undertaken by the Trust in the relevant financial year, to be referred as the Annual Plan, together with details of the activities to be undertaken or completed by the Trust during such time, the expected time for completion of the projects and cost for such projects.

(2) The Annual Plan shall contain all projects, programs, activities proposed to be undertaken by the Trust for achieving its objective and shall have clearly demarcated milestones.

22. *Annual Budget.*—The Member Secretary of the Executive Committee shall at the beginning of each financial year, cause preparation of an Annual Budget containing the details of the proposed income and expenditure on activities covered in the Annual Plan for that particular financial year, including the legal, administrative and other costs and expenditure proposed to be incurred by the Trust together with details of the funding requirements in this regard, to be referred as the Annual Budget.

23. *Approval of the Annual Plan and the Annual Budget.*—(1) The Annual Plan and the Annual Budget shall be laid before the Governing Body for its approval.

(2) The Member Secretary of the Executive Committee shall, on receipt of the copies of the duly approved Annual Plan and the related

Annual Budget from the Convener of the Governing Body, submit the same to the Govt. within a period of thirty days from the date of receipt of approval of the Governing Body.

(3) Without prejudice to the provisions of sub rule (2), the Trust may undertake expenditures for activities that are not approved in the Annual Plan subject to specific approval by the Chairperson, Governing Body, which shall be laid before the Governing Body within thirty days of such order, otherwise it becomes infructuous.

(4) The Annual Plan and related Annual Budget may be amended at any time subject to the approval of the Chairperson, Governing Body, which shall be laid before the Governing Body in the next year Annual Plan or Budget.

24. *Annual Report.*—(1) The Member Secretary of the Executive Committee shall, within ninety days of the end of each financial year, submit an Annual Report.

(2) The Annual Report shall be approved by the Executive Committee and shall contain details, inter-alia, of the activities completed by the District Mineral Foundation during the financial year—Income, Expenditure statement, Audited Accounts, Vision document etc.

(3) A copy of the Annual Report shall be sent to the Government within a period of 30 days from the date of its approval by the Executive Committee

25. *Maintenance and Audit of Accounts.*—(1) The Accounts of the Trust shall be maintained in the form, mode and manner as may be decided by the Government.

(2) The Accounts of the Trust Fund shall be audited in such manner as may be decided by the Government.

(3) After the Audit referred to in sub Rule (2), the trust shall submit the Annual Report to the Government.

26. *Administrative Arrangement.*—(1) The State Government shall provide services to the personnel under their control for management of the Trust and for execution of the Annual Plan as may be required for the purpose.

(2) The trust may request Settlor/State Government to provide required number of core personnel from its departments or from regular employees of the District Cadre or such other cadre, for providing administrative and technical assistance to the Trust. Services of such personnel shall continue to remain in their own respective cadres.

(3) The Trust may also ask service providers to provide such services as may be needed for smooth functioning of the Trust and may provide for incurring contingent expenditure for its functioning.

(Sd.) SHAIENDRA KUMAR, IAS,
Commissioner/Secretary to Government,
Industries and Commerce Department.