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PART III

Laws, Regulations and Rules passed thereunder.

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

Notification

Srinagar, the 19th July, 2017.

SRO-302.—In exercise of the powers conferred by section 15 and section 23C of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957), the Government of Jammu and Kashmir hereby make the following rules, namely :—

1. *Short title and commencement.*—(1) These rules may be called “the Jammu and Kashmir Minor Mineral Exploitation and Processing Rules, 2017”.

(2) They shall extend to whole of the State of Jammu and Kashmir.

(3) They shall come into force from the date of their publication in the Government Gazette.

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

- (i) “Act” means the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957) ;
- (ii) “Appellate Authority” means the Divisional Commissioner or any officer of the department vested with such powers by the Government under these rules to perform such functions ;
- (iii) “Approved Water Supply” means the water supply of more than 20 KLD where system for treatment of water for drinking purposes is involved in open or a spring/lake used for drinking purposes. Tube-wells/Overhead Tanks/Covered reservoirs/ rivers are not covered under this ;
- (iv) “Controlled Area” means an area under permanent occupation of Defence/Belt Forces ;
- (v) “Director” means Director, Geology and Mining, Government of Jammu and Kashmir ;
- (vi) “Department” means Department of Geology and Mining, Government of Jammu and Kashmir ;
- (vii) “Educational Institutions” means Government schools or Government recognized private schools ;
- (viii) “Exploitation” means extraction and value addition of minor minerals to finished products through mechanical means with a little or no change in their chemical composition for their utilization into constructional and developmental works and for other utilities ;

- (ix) “Government” means Government of Jammu and Kashmir ;
- (x) “Healthcare Establishment” means Primary Health Centre or above of a Health and Medical Education Department or recognized private HCE with minimum of ten beds ;
- (xi) “Licensing Authority” means the Director, Geology and Mining Department or an officer authorized by the Government ;
- (xii) “Minor Mineral” means the minerals as defined in section 3 (e) of the Act ;
- (xiii) “Mineral Concession” means a Mining Lease, Mining License, Quarry License, Short-Term Permit and Disposable Permit in respect of minor mineral permitting the mining of minor mineral in accordance with the Jammu and Kashmir Minor Mineral (Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining) Rules, 2016 ;
- (xiv) “Minor Mineral based Unit Hot and Wet Mixing Plant/Crusher” means the industrial units/plants/crusher installed/established for processing of the minor minerals into value added/finished products ;
- (xv) “Orchards/Abi-awal/Saffron fields” means land use of more than 10 kanals as Orchards/Saffron fields/Abi-awal. Unirrigated land shall not be covered under this ;
- (xvi) “Processing” means all physical processes such as grading, washing, crushing, pulverization, calcinations, powdering, cutting and polishing of minor minerals ;
- (xvii) “Processor” means a unit/plant/crusher holder involved in exploitation and processing and sale of minor minerals under a valid license from Licensing Authority ;
- (xviii) “Registering Authority” means the General Manager, District Industries Centre concerned or an officer authorized by the General Manager or the Government in this behalf ;

- (xix) “Residential area/abadideh” means 20 or more authorized revenue recorded houses within radius of 500 metres.

Words and expression used but not defined in these rules shall have the meaning respectively assigned to them in “The Jammu and Kashmir Minor Mineral (Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining) Rules, 2016 and the Mines and Minerals (Development and Regulation) Act, 1957”.

3. *General restrictions.*—(1) No License to operate a minor mineral exploitation unit/plant/crusher/hot and wet mixing plant shall be granted by the Licensing Authority to a processor unless the unit/plant/crusher possesses,—

- a. NOC to establish and operate the minor mineral processing unit/plant/crusher from the concerned Deputy Commissioner after verifying land records etc. ;
- b. Consent to establish/operate the unit/plant from the J&K State Pollution Control Board relating to a particular site only as indicated in the revenue document issued by the Deputy Commissioner concerned ;
- c. NOCs from Fisheries and Irrigation and Flood Control Departments ;
- d. Consent from minor mineral leasee/licensee or a permit holder for feeding raw supplies of minor minerals to run minor mineral processing and exploitation unit/plant/crusher of the applicant ;
- e. Registration from District Industries Centre concerned which shall be done only after completion of the above said formalities.

4. *Negative/Restricted Zones.*— (1) No minor mineral based unit/plant/crusher shall be established—

- (a) On Agricultural, Grazing, Shamlat/Kacharayee and Forest land ;

- (b) Within the prohibited wildlife area/protected/reserved forest area limits ;
- (c) National Highway in plain areas up to = 100 meters ;
- (d) National Highway in sub-mountain areas up to= 50 meters ;
- (e) State Highway and other district roads in plain areas up to = 50 meters ;
- (f) Highway and other roads in sub-mountainous areas up to = 50 meters ;
- (g) Jammu/Srinagar Municipal Limits up to = 01 km. ;
- (h) Major District Headquarter up to = 01 km. ;
- (i) Nearest residential area/abadi up to = 500 meters ;
- (j) Controlled (cantonment area) up to = 01 km. ;
- (k) Hospital/Nursing Home/Health Centre up to = 02 km. ;
- (l) Approved water supply of 20 Kilo liter up to = 01 km. ;
- (m) Notified birds or other sanctuaries/National Park/Forest land up to = 01 km. ;
- (n) Nearest Tourist Complex/Resorts up to =01 km. ;
- (o) Nearest educational institution or other similar institution up to = 01 km.

(2) Besides while granting consent to/for establishment/clearance by the District Industries Centre, Deputy Commissioner and State Pollution Control Board, it shall make and/or shall cause to make a full and complete investigation in the prescribed manner in respect of the application received having due regard to the following, namely :—

- (a) the suitability of the locality/location where the proposed minor mineral exploitation unit/plant/crusher is to be established ;

- (b) the number of units/plant/crusher operating in the area ;
- (c) whether such unit/plant/crusher is not detrimental to the health of general public, habitation, water resources, fauna and flora in the close proximity ;
- (d) the setting of such unit/plant/crusher should be allowed on areas suitable for the purpose without any detrimental effect to the agriculture/productive land ; and such other conditions as may be prescribed from time to time.

5. *Grant of license for exploitation/processing of minor minerals.*—(1) A permanent resident of the State desirous to establish a minor mineral exploitation/processing unit/plant/crusher in an area of State shall make an application to the Licensing Authority in a prescribed form after conforming to the conditions as laid down under the aforesaid rules 3 and 4.

(2) On receipt of application and fulfillment of all conditions under these rules, the Licensing Authority after satisfying itself that the applicant has fulfilled all conditions under these rules, may grant license for exploitation/processing of minor minerals for a period of five years which shall be renewed after every two years provided that the minor mineral exploitation/processing unit/plant/crusher continues to conform to the conditions laid down under rules 3 and 4 of these rules.

(3) Notwithstanding anything contained in these rules, an existing minor mineral exploitation unit/plant/crusher shall be given license for a period of five years and shall be allowed to operate after the commencement of these rules provided that—

- (a) he has obtained all clearances applicable before the commencement of these rules ;
- (b) he applies for fresh license within a period of two months from the commencement of these rules.

(4) After the expiry of license granted under sub-rule (3), the minor mineral exploitation unit/plant/crusher shall have to seek new license under these rules, fulfilling all the conditions/criteria prescribed under these rules.

6. *Fee and period of license.*—(1) Fee for grant of license shall be,—

- (a) Rs. 25,000/- (Rupees twenty five thousand) for Hot/Wet Mixing Plant for initial three years and renewal fee for such license for three years shall be Rs. 10,000/- (Rupees ten thousand) ;
- (b) Rs. 20,000/- (Rupees twenty thousand) for Stone Crusher for initial three years and renewal fee for such license shall be Rs. 8000/- (Rupees eight thousand) which shall be valid for three years :

Provided that the existing units which may be granted license under rule 5(3) of these rules shall pay the same fee as applicable for grant of new licenses ;

Provided further that the Government may, by a notification in the Government Gazette, revise the license fee and renewal fee from time to time.

(2) The license shall be granted for a period of five years which can be renewed further after every two years or till the period it is revoked by the Licensing Authority, whichever is earlier. The application and renewal shall be processed only after verification of records as provided in rules 7, 13 and 14 of these rules.

(3) After a license has been granted/renewed, the Licensing Authority shall forward a copy to the following :—

- i. Directorate of Industries and Commerce Department ;
- ii. Deputy Commissioner concerned ;

- iii. General Manager, District Industries Centre concerned ;
- iv. District Mineral Officer, Geology and Mining ; and
- v. Member-Secretary, State Pollution Control Board.

7. *Raw material (Minor Minerals) to be obtained from legal source.*—(1) No licensee of a unit/plant/crusher shall procure the minor minerals for storage, processing the same in his unit/plant/crusher for the finished goods and sale, other than from a concessionaire under the Jammu and Kashmir Minor Mineral (Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining) Rules, 2016.

(2) Licensee of a unit/plant/crusher shall allow entry of minor minerals to his unit/plant/crusher only under a valid consignee challans issued under the Jammu and Kashmir Minor Mineral (Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining) Rules, 2016.

(3) Licensee of a unit/plant/crusher shall make transportation of his exploited/processed goods under a valid consignee challans as per the procedure prescribed under the Jammu and Kashmir Minor Mineral (Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining Rules).

(4) Licensee of a unit/plant/crusher shall maintain all records of the minor minerals procured, processed and supplied to further destinations and submit monthly returns as prescribed under the Jammu and Kashmir Minor Mineral (Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining) Rules, 2016.

8. *Powers of inspection.*—(1) The Licensing Authority or, any other authorized officer of the Department of Geology and Mining shall have right—

- (a) to enter and inspect a minor mineral processing unit/plant/crusher ;

- (b) to seize or order the production of any document, book, register or records in the possession of owner or any person having control of or employed in connection with any unit/plant/crusher if he has reasons that contravention of the Act or the rules made hereunder has been or is being or is about to be committed ;
- (c) to stop and inspect any vehicle or cart in which minor minerals (raw or finished) are carried for storage, processing in the plant/unit, storage or for sale after processing ;
- (d) to seize the material (minor minerals), in raw or processed form found in the premises of a processing unit or of any person or any vehicle or cart or machinery in respect of which he has reason to believe that the contravention of provisions of these rules has been or is being or is about to be committed.

Explanation :—The provisions of the “Jammu and Kashmir Minor Mineral (Storage, Transportation of Minerals and Prevention of Illegal Mining) Rules, 2016” shall apply for seizure of minor minerals and tools for their illegal transportation and storage, in raw or processed form.

9. *Protection of environment.*—(1) Every licensee shall abide by the Pollution Control Board guidelines in force and shall take all precautions, adopt such measures and install such devices as prescribed for protection of environment and control of pollution as may be directed by the concerned authority. Air pollution due to generation of dust, secondary dust or fugitive emissions, fumes and noise pollution be controlled and kept within permissible limits under the relevant laws and guidelines issued from time to time.

(2) Every processor shall erect boundary walls not less than 10 ft. around his processing unit or as prescribed by the State Pollution Control Board.

(3) Every processor shall make plantation along the erected boundary walls all around his unit/plant/crusher or as prescribed by the State Pollution Control Board.

(4) The processor shall not allow direct run off water/other waste to come out of the premises of the processing unit which would be disposed off as per laid guidelines.

10. *Revocation or suspension of license.*—(1) If the Licensing Authority is satisfied, either on a reference made to him in this behalf or otherwise that,—

- (a) a license granted under rule 5 of these rules has been obtained by misrepresentation of a material fact ; or
- (b) the holder of the license has without reasonable cause failed to comply with the conditions subject to which the license has been granted ; or
- (c) the holder of the license has suspended the processing of the material in unit/plant/crusher without a reasonable cause in order to create artificial scarcity ; or
- (d) the holder of a license has contravened any of the provision of the Act or the rules made thereunder ; or
- (e) the holder of a license does not conform to the provision of rule 21 of these rules ; or
- (f) the holder of a license has not followed the provisions of rule 11 of these rules,

without prejudice to any other penalty to which the holder of the license may be liable under these rules, the Licensing Authority may, after giving the holder of the license an opportunity of showing cause, revoke or suspend the license or forfeit the sum, if any, or any portion thereof deposited as security for the due performance of the conditions subject to which the

license has been granted and may also black-list the owner of the unit/plant/crusher debarring him from issuance of license for a period up to 5 years.

11. *Fixation of price.*—The Deputy Commissioner of the district may from time to time, by notification in the Government Gazette, fix the maximum price of finished product per cubic meter for whole of the district or different areas and different prices may be fixed for different kinds having regard to specific gravity, size, compressive strength colour and end use. While fixing such price per cubic meter for a minor mineral all relevant cost factor would be taken into account to ensure that the license holder is not charging exorbitantly from the public.

12. *Quality of finished goods.*—The finished goods manufactured by the licensee shall conform to the standard set for such products by the Indian Bureau of Standards or any other agency authorized in this behalf and any variation shall constitute an offence punishable under rule 18 of these rules.

13. *Restrictions on sale by processor.*—(1) No processor shall sell or offer to sell or otherwise dispose off, to any person finished goods for a price or at a rate exceeding the maximum ceiling fixed under rule 11.

(2) Where finished goods are sold, offered for sale or otherwise disposed off in contravention of rule 11 by the processor or through any person employed by him or acting on his behalf, shall be liable to prosecution/penalties provided under rule 18, whether or not they were present when the contravention occurred unless, it is proved that due diligence was exercised by him to prevent such contravention.

(3) Every consignment of finished goods whether carried by a vehicle, cart or any other mode or stored or delivered shall invariably be accompanied by a valid sale bill as prescribed under law in force on the subject indicating the quality, price and tax charges and the consignment not accompanied by such documents shall be liable to seizure and the unit/plant/crusher holder shall be dealt under law.

14. *Maintenance of accounts.*—Every licensee shall maintain an accurate account of all the purchases of raw material, quality, sale of the finished product and other expenses incurred and such records shall be open to inspection to the Licensing Authority or any Officer authorized in this behalf by the Government.

15. *Refusal to sell.*—No licensee or dealer shall refuse to sell the goods to any person, if he is holding the stock for such sale. Such refusal by licensee or dealer shall constitute an offence under the Hoarding and Profiteering Prevention Ordinance, Samvat 2000 and any other law in force for the time being in force on the subject.

16. *Delegation of powers.*—(1) The Government may, by notification in the Government Gazette or as it may deem fit, direct that any or all the powers exercisable by it under these rules may in relation to such matter and subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officers or authority subordinate to the Government :

Provided that powers already delegated under rule 84 of the Jammu and Kashmir Minor Mineral (Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining) Rules, 2016, shall be exercised by the said officers under these rules also.

17. *Appeal.*—(1) Any person aggrieved by a decision of the Licensing Authority may, within a period of thirty days from the date of which the decision is communicated to him, prefer an appeal to the Appellate Authority provided that the Appellate Authority may entertain the appeal after the expiry of said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of appeal under sub-rule (1), the Appellate Authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

18. *Penalties.*—(1) Whenever a processor is found to have stored minor minerals in his processing unit in raw or finished form or sold it illegally and in contravention to these rules, such processor shall be liable for,—

- (a) recovery of ten times cost of mineral so stored in raw or processed form within the premises of his processing unit or transported further ;
- (b) revocation of the licenses of his processing plant/unit up to two years with ten times recovery of cost of illegal minor mineral so stored in raw or processed form within his processing unit/ plant/crusher or sold, when found for second time ;
- (c) revocation of the licenses up to five years with the recovery of ten times cost of illegal minor mineral so stored in raw or finished form within the premises of his processing unit or plant, when found for the third time ;
- (d) complete revocation of licenses or imprisonment up to 5 years with a penalty up to Rs. five lakhs after three consecutive contraventions.

(2) Any processor who contravenes the provisions of rules 9, 11, 14 and 15 of these rules shall be liable to pay penalty up to Rupees one lakh or revocation of license up to two years or both.

19. *Licensing Authority to be a public servant.*—The Licensing Authority and every person duly authorized to discharge any duties imposed on him by or under these rules shall be deemed to be a public servant within the meaning of section 21 of State Ranbir Penal Code, Svt. 1989.

20. *Protection of action taken under these rules.*—(1) No suit, prosecution or other legal proceedings shall lie against any officer or authority for anything which is done in good faith or intended to be done in pursuance to these rules or any other rule or order made thereunder.

(2) No suit or any legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything, which is done in good faith or intended to be done in pursuance of these rules or any rule or order made thereunder.

21. *Conformity to other statutory provisions and court directions.*— Notwithstanding anything contained in these rules, the processor shall abide by the existing Acts and rules or any modification/ amendments made under different Acts and rules from time to time, any guidelines of State Pollution Control Board/Central Pollution Control Board and any orders of the High Court/Supreme Court. The processor shall be required to give an affidavit to this effect to the Licensing Authority at the time of application.

22. *Exemption.*—Notwithstanding anything contained in these rules, license for temporary Stone Crusher/Hot/Wet Mixing Plant exclusively for construction of National Highways, State Highways or any other infrastructural Government Project and Government approved Public Private Partnership Project may be granted by the Licensing Authority for the project period on fulfilling the provisions of the Jammu and Kashmir Minor Mineral (Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining) Rules, 2016 and the guidelines issued by the J&K State Pollution Control Board.

23. *Repeal and savings.*—(1) If immediately before the commencement of these rules, any law, rule or order relating to the matter regulating under these rules is in force, that law, rule or order, as the case may be, shall stand repealed.

(2) Notwithstanding such repeal, nothing in these rules shall affect validity, effect of consequence of anything done or action taken under the said law, rule or order so repealed before the date on which these rules comes into force.

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