

Most Urgent
By Fax / E-mail

Government of Odisha
Department of Steel and Mines

No-IV(A)SM-44/2015 (Pt-IV)- 1623 /SM, Bhubaneswar, dated the 24.2.2016

From

Sri S.L. Seal,
Additional Secretary to Government

To

The Director of Mines,
Odisha, Bhubaneswar

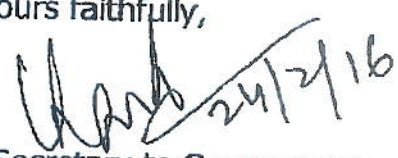
Sub: Odisha District Mineral Foundations Rules, 2015 (as amended till 24.2.2016)

Sir,

In inviting a reference to the subject mentioned supra, I am directed to enclose a copy of Odisha District Mineral Foundations Rules, 2015 (as amended till 24.2.2016) and request you to upload the same on the Website of Steel & Mines Department immediately.

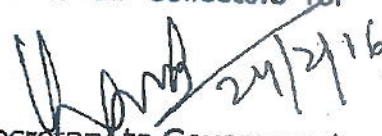
Enclo: As above

Yours faithfully,


Additional Secretary to Government.

Memo No. 1624 /SM Date 24.2.2016

Copy alongwith copy of the enclosures forwarded to all Collectors for information and necessary action.


Additional Secretary to Government

The Odisha District Mineral Foundations Rules, 2015
(as amended till 24.2.2016)

No.IV(A)SM-44/2015(Pt-IV)-7745/SM, In exercise of the powers conferred by sub-section (4) of section 15 and section 15A read with section 9B of the Mines and Minerals (Development and Regulation) Act, 1957 (Act 67 of 1957), the Governor of Odisha do hereby make the following rules to regulate the composition, functions and manner of working of the District Mineral Foundations and the amount of payment to be made to the District Mineral Foundations by the concession holders of minor minerals for the interest and benefit of persons and areas affected by mining related operations and for purposes connected herewith, namely:-

1. **Short title and commencement** .- (1) These rules may be called the Odisha District Mineral Foundations Rules, 2015.
(2) These rules shall be deemed to have come into force on the 12th January, 2015.
2. **Definitions** .- (i) In these rules, unless the context otherwise requires,-
 - (a) 'Act' means the Mines and Minerals (Development and Regulation) Act, 1957 (Act 67 of 1957);
 - (b) 'Board' means the Board of Trustees of the Trust established under these rules;
 - (c) 'Government' means the State Government;
 - (c-a) 'PMKKKY' means 'Pradhan Mantri Khanij Kshetra Kalyan Yojana' which is a scheme framed by the Central Government, to be implemented by the District Mineral Foundations of the

respective Districts under these rules using the funds accruing to them.

- (d) 'Rules' means the Odisha District Mineral Foundations Rules;
- (e) 'Trust' means the District Minerals Foundation constituted under these rules;
- (f) 'years' means financial year commencing from the 1st April and ending on the 31st March.
- (ii) The words and expressions used but not defined in these rules shall have the same meaning as assigned to them in the Mines and Minerals (Development and Regulation) Act, 1957 (Act 67 of 1957) or, as may be defined under the provisions of the Mineral Concession Rules, 1960 or the Odisha Minor Mineral Concession Rules, 2004.

3. Trust and its constitution .- (1) There shall be constituted for each District of Odisha a Trust to be known as the District Mineral Foundation for the said District;

(2) The Trust shall be perpetual body and shall have a common seal.

4. Composition of Board of Trustees of the District Mineral Foundation .- (1) The Board of Trustees shall consist of the following members; namely:-

- (i) Revenue Divisional Commissioner or Collector, as may be decided by the Government, who shall be its Chairperson;
- (ii) Collector, if he is not the chairperson, Additional District Magistrate and district level officers of Steel and Mines, Forest and Environment, Rural Development, Works, ST and SC Development and Health and Family Welfare

Departments and of such other Departments as the Government may specify, who shall be its members, ex-officio;

- (iii) The Collector of the District shall be the Managing Trustee;
- (iv) Each Member of the Lok Sabha and each Member of the Odisha Legislative Assembly in whose constituency any major mineral concession is situated, shall be its ex-officio members;
- (v) A member of the Zilla Parishad situated within the District wherein the area in which any major mineral concession is situated to be nominated by the Government as an ex-officio member;
- (vi) Not exceeding three members of Panchayati Raj Institutions or Urban Local Bodies from the area in which any major mineral concession is situated to be nominated by the Government as members.

(2) The Chairperson may invite such other officials to the meetings of the Board, as he may consider necessary.

(3) The quorum for the Board shall be fifty per centum of the members.

(4) The Board shall meet at least twice in a financial year.

5. Powers and Functions of the Board .- (1) The Board shall have the overall control over the management and functioning of the Trust and shall, subject to the guidelines or directions, if any, issued by the Government from time to time, have the powers to -

- (a) approve the annual budget and action plan for the Trust;
- (b) approve the master plan or perspective plan;

- (c) decide the priority areas and sectoral allocations;
- (d) appoint the auditors and approve the annual reports;
- (e) grant administrative sanction of individual projects exceeding the estimated cost of Rupees Ten Crore; and
- (f) monitor the proper functioning of the Trust.

6. Composition, Powers and functions of the Executive Committee.-

(1) The Executive Committee of a Trust shall consist of the following members, namely:-

- (a) Collector, who shall be the Chairperson;
- (b) District level officers of Rural Development, Works, Forest and Environment and Steel and Mines Departments ... Members; and
- (c) Project Director, District Rural Development Agency ... Member and Chief Executive of the Trust.

(2) The Executive Committee shall be responsible for monitoring the day to day management and supervision of the activities of the Trust under the overall supervision and control of the Board and more specifically, shall have the following powers, namely:-

- (a) Award contracts and works and sanction of payment for the same.
- (b) Grant administrative sanction for individual projects with estimated cost not exceeding Rupees Ten Crore.
- (c) Maintenance of accounts.
- (d) Supervision of progress in discharge of contracts and execution of works.
- (e) Investment of funds of the Trust in accordance with the guidelines laid down by the Government and the Board.

(f) Preparation of perspective plan, budget etc. for approval of the Board.

(3) The Executive Committee shall meet at least once every quarter and more frequently if required.

(4) The Executive Committee may delegate such of its powers to the Chief Executive as it may consider appropriate.

7. Funds of the Trust.- The funds of the Trust shall comprise of -

(a) payment to the Trust made by the lessees of major mineral leases at the rates to be specified by the Central Government;

(b) payment to the Trust made by the lessees of minor mineral leases at the rates specified in these rules;

(c) all receipts and incomes including interest accrued on the deposits made in the bank; and

(d) voluntary contributions, if any, received by the Trust from any person or Organisation.

8. Bank Accounts .- (1) All the funds of the Trust shall be credited to the bank account(s) of the Trust to be operated in scheduled bank(s).

(2) The bank account(s) of the Trust shall be operated by at least two persons, to be decided by the Board, one of whom shall be the Managing Trustee of the Board.

(3) All payments by the Trust, except contingent expenditure not exceeding Rs.5000 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.

(4) The amounts of the Fund not required for immediate disbursement may be deposited in fixed deposits or flexi-

deposits, following a transparent and competitive invitation of offers from eligible scheduled banks.

9. **Amount payable by lessees of minerals to the Trust .-** (1) All holders of major minerals leases 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, as the case may be, sub-section (6) of section 9B of the Act.
- (2) All holders of the minor mineral leases shall, in addition to the royalty, pay to the respective Trust amount equivalent to -
- (a) an amount equal to thirty percentum of the royalty, if the lease has not been granted through auction.
- (b) Ten percentum of the royalty, if the lease has been granted through auction.
- (3) The amount under sub-rule (1) and (2) shall become payable and be paid on the same day on which such royalty was payable to the Government.
10. **Permissible activities; -** (1) The funds of the Trust may be utilized for implementing the PMKKKY consisting of the following activities, namely:-
- (A) **High priority activities: -**
- (i) **Drinking water supply.-** centralized purification systems, water treatment plants, permanent or temporary water distribution networks including stand-alone facilities for drinking water, laying of piped water supply system;

(ii) **Environment preservation and pollution control measures:-** effluent treatment plants, prevention of pollution of streams, lakes, ponds, ground water, other water sources in the region, measure for controlling air and dust pollution caused by mining operations and dumps, mine drainage system, mine pollution prevention technologies, and measures for working or abandoned mines and other air, water and surface pollution control mechanisms required for environment-friendly and sustainable mine development, except in so far as these responsibilities of the lessee in terms of relevant laws or conditions of clearances granted to the lessee;

(iii) **Health care:-** (a) the focus must be on creation of primary or secondary health care facilities in the affected areas and the emphasis should not be only on the creation of the health care infrastructure, but also on provision of necessary staffing, equipment and supplies required for making such facilities effective.

(b) To that extent, the effort should be to supplement and work in convergence with the existing health care infrastructure of the local bodies, State and Central Government.

(c) The expertise available with the National Institute of Miners' Health may also be drawn upon to design special infrastructure needed to take care of mining related illnesses and diseases. (d) Group Insurance Scheme for health care may be implemented for mining affected persons not covered under other schemes;

- (iv) **Education**– Construction of school buildings, Additional class rooms, Laboratories, Libraries, Art and crafts room, toilet blocks, drinking water provisions, residential Hostels for students or teachers in remote areas, sports infrastructure, engagement of teachers or other supporting staff, e-learning set up, other arrangement of transport facilities (bus or van or cycles or rickshaws etc.) and nutrition related programs;
- (v) **Welfare of Women and Children**- Special programmes for addressing problems of maternal and child health, malnutrition, infectious diseases etc;
- (vi) **Welfare of aged and disabled people**– Special programme for welfare of aged and disabled people. Provision of aids and appliances to disabled persons etc.
- (vii) **Skill development**– (a) skill development for livelihood support, income generation and economic activities for local eligible persons;
- (b) The projects or schemes may include training, skill development centre, self-employment, support to Self Help Groups and provision of forward and backward linkages for such self-employment economic activities;
- (viii) **Sanitation** – Collection, transportation and disposal of waste, cleaning of public places, provision of proper drainage and Sewage Treatment Plant, provision for disposal of fecal sludge, provision of toilets and such other related activities;

(ix) **Housing:-** Schemes for providing shelter to the persons not having pucca houses including group housing schemes, individual houses, old age homes etc.

(B) Other priority activities: –

(i) **Physical infrastructure** – providing required physical infrastructure such as road, bridges, railways and waterways projects;

(ii) **Irrigation** – developing alternate sources of irrigation, check-dams, diversion weirs, adoption of suitable and advanced irrigation techniques;

(iii) **Energy and Watershed Development** – (a) Development of alternate source of energy (including micro-hydel) and rainwater harvesting system;

(b) Development of orchards, integrated farming and economic forestry and restoration of catchments.

(iv) **Afforestation** – Plantation of trees and regeneration of degraded forests, soil conservation measures etc;

(v) any other measures for enhancing environmental quality in the districts where mining operations are carried on.

(C) As far as possible, not less than 60 percentum of the funds may be utilised for high priority activities and upto 40% of the funds may be utilised for other priority activities:

Provided that if the Board is of view that it is necessary in the interest of welfare of the affected people and of the development of the affected areas so to do, it may take up

projects for other priority areas in excess of the limits specified in this sub-rule."

11. Identification of affected areas and affected people.-

- (1) The Board shall identify, prepare and maintain a list of affected areas and affected people in accordance with the provisions of sub- rules (2) and (3) respectively.
- (2) Affected areas shall be of two types, namely:- (i) directly affected areas (ii) indirectly affected areas.
 - (a) Directly affected areas are areas where direct mining-related operations such as excavation, mining, blasting, beneficiation and waste disposal (overburdened dumps, tailing ponds, transport corridors etc.) etc. are located, which may also include -
 - (i) villages and gram panchayats within which the mines are situated and are operational, which may extend to neighbouring village, block or district or even the State;
 - (ii) an area within a radius of ten Kilometres from a mine or cluster of mines, irrespective of the fact whether this falls within the district concerned or adjacent district;
 - (iii) villages in which families displaced by mines have been resettled or rehabilitated by the project authorities; and
 - (iv) villages that significantly depend on the mining areas for meeting their economic needs and have usufruct and traditional

rights over the project areas i.e. for grazing, collection of minor forest produce etc.

(b) Indirectly affected areas are areas where local population is adversely affected on account of economic, social and environmental consequences due to mining-related operations and such operation may have the major negative impacts of mining by way of deterioration of water, soil and air quality, reduction in stream flows and depletion of ground water, congestion and pollution due to mining operations, transportation of minerals, increased burden on existing infrastructure and resources.

3. (a) Affected people may be of directly affected persons like -

- (i) 'affected family' as defined under section 3 (c) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (30 of 2013); and
- (ii) 'displaced family' as defined under section 3 (k) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or
- (iii) any other family or persons as appropriately identified by the concerned Gram Sabha.

(b) Persons affected by mining related operation may also include people who have legal and occupational rights over the land being mined and also those with usufruct and traditional rights.

(c) Affected families may also be identified, as far as possible, in consultation with the local or elected representatives of Gram Sabha.

11A. General guidelines.— (1) The developmental and welfare activities to be taken up by the Trust shall, as far as possible, be in the nature of complementing the ongoing schemes or projects being funded by the State as well the Central Government.

(2) Activities meant to be taken up under the 'polluter pays principle' should not be taken up under the Trust.

(3) Without prejudice to the powers of the Trust, efforts shall be made to achieve convergence with the State and the District Plans so that the activities taken up by the Trust supplement the development and welfare activities and are treated as extra-budgetary resources for the State Plan.

(4) An amount not exceeding five percentum of the annual receipts of the Trust or such other limit not exceeding five percentum, as may be fixed by the Government, may be utilised for administrative, supervisory and overhead costs of the Trust.

(5) As far as possible, no temporary or permanent posts should be created by the Trust and for any creation of temporary or permanent posts and purchase of vehicle, the Trust shall require prior approval of the Government:

Provided that minimum required staff can be engaged on contractual basis, with the approval of the Government.

(6) If the affected area of a mine in one district also falls in the jurisdiction of another district, such percentage of amount collected from the mine by the Trust, as may be decided by the Government, shall be transferred to the Trust of the other district concerned for taking up the activities in such areas.

(7) A project that is for benefit of the affected area or people, but

stretches beyond the geographical boundary of the district should be taken up by the Trust of the respective district.

(8) Projects for development of common infrastructure like construction of roads, bridges etc. in excess of the limits specified in regard to the priority for fund utilization, on a case to case basis, may also be taken up for projects of importance to the district. (9) Prior approval of the Government need to be taken, before taking up such works in excess of the limits of fund utilization.

(10) A reasonable sum of the annual receipts as decided by the Board, may be kept as endowment fund for providing sustainable livelihood."

- 12. Special provisions for scheduled areas .-** (1) The process to be adopted for utilization of funds in the scheduled areas shall be guided by the provisions contained in article 244 read with Schedule V to the Constitution of India relating to administration of the Scheduled Areas and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007).

(2) In respect of villages affected by mining related operation situated within the Scheduled Areas -

(i) approval of the Gram Sabha shall be required-

a) for all plans, programs and projects to be taken up in the Gram Sabha area,

b) for identification of beneficiaries under the existing guidelines of the Government.

(ii) Report on the works undertaken by the Trust in the

respective village shall be furnished to the Gram Sabha after completion of every financial year.

Explanation .-

Gram Sabha shall have the same meaning as assigned to it for the purpose of implementation of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (Act 40 of 1996)."

- 13. Execution of Works or Contracts .-** (1) As far as possible, the works undertaken by the Trust shall be executed only through Government Departments, agencies and public sector undertakings normally undertaking such works which will follow the relevant norms and procurement procedures as may be applicable to the Government projects implemented by organisation while executing or awarding contracts.
- (2) Technical approval and supervision of the work will be looked after by officers competent to do so under the administrative delegation of powers as applicable to the Department concerned.
- (3) In respect of such works which cannot be executed through Government Departments, agencies or public sector undertakings, the Executive Committee may award the work to any other competent and sound agencies following a transparent process, after obtaining prior approval of the Board.

- 14. Maintenance of accounts .-** (1) The accounts of the Trust shall be maintained in accordance with such accounting procedure as the Government may notify in the official gazette.
- (2) The investments from the funds of the Trust shall be made in accordance with such guidelines as the Government may notify in the official gazette.
- 15. Audit .-** The accounts of the Trust shall be audited every year by the Chartered Accountant appointed by the Board, or in such other manner as the Government may specify, and the report thereof shall be placed in the Board alongwith the Annual Report and shall also be placed in the public domain.
- 16. Annual Report .-** (1) Every year, within three months from the date of its closure, the Board shall cause to prepare an Annual Report on the activities of the Trust for the respective year.
- (2) The Annual Report will be submitted to the Government within one month from the date of its approval by the Board and will also be hosted on the website of the Trust.
- (3) The Annual Report of each Trust shall be laid before the Odisha Legislative Assembly.
- 17. Maintenance of transparency .-** (1) The Trust shall maintain transparency in respect of its activities.
- (2) Each Trust shall have a website on which, inter-alia, following information will be hosted and kept updated, namely:-
- (i) Details of composition of the Board and the Executive Committee;
 - (ii) Decisions of all meetings of the Board and the Executive Committee;

- (iii) List of areas and people affected by mines;
- (iv) Quarterly details of all contributions received from lessees and others;
- (v) Perspective plan, budget, work orders, annual report;
- (vi) Details of progress of works including description of work, estimated cost, name of implementing agencies, expected date of commencement and completion of work, financial and physical progress upto last quarter etc; and
- (vii) Details of individual beneficiaries and the extent of assistance sanctioned and disbursed to them.

(3) Each trust shall make voluntary disclosure of the information under the Right to information Act, 2005 (22 of 2005)

18. Monitoring of the amount payable to the Trust .- (1) Every lessee shall remit the amount payable to the Trust into the credit of such bank account as the Trust may specify, under intimation to the officer to whom the royalty is payable.

(2) Every officer who is authorised to collect royalty shall maintain a register of the amount payable and paid by each lessee and furnish the monthly consolidated statement thereof to the Chief Executive of the Executive Committee at the end of every month.

19. Power of Government to relax the operation of any provision of these rules .- State Government may, by an order, relax the operation of any of the provisions of these rules as may be specified therein if, in the opinion of the Government, such relaxation is in the public interest.

- 20. Power of Government to remove difficulties .-** (1) If any difficulty arises in giving effect to the provisions of these rules, the State Government may, by order published in the Odisha Gazette, make such provisions not inconsistent with the provisions of these rules as it appears to it to be necessary or expedient for removing the difficulty.
- (2) Every order made under this rule shall be laid, as soon as may be, after it is made, before the Odisha Legislative Assembly.

By order of the Governor

-Sd-

Principal Secretary to Government

(The Odisha District Mineral Foundations Rules, 2015 were notified vide Notification No.IV(A)SM-44/2015 (pt-IV)-7745/SM dated 18.8.2015 and amended vide Notification No.437 dated 15.1.2016 and Notification No.1518 dt.22.2.2016)