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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 AND INDUSTRIES DEPARTMENT

Cell-M1

ORDER

No. 445-CI/O/ESTT/003/05/A (M1).—29th November 2006.—Whereas it has been observed that the existing procedure for disposal of mining lease application for minor minerals is lengthy and cumbersome ; and

Whereas it has also been observed that on many occasions the time taken for grant of mining lease of minor minerals is more than one year, which is beyond the period prescribed in the West Bengal Minor Mineral Rules, 2002 (WBMMR, 2002) ; and

Whereas it has been felt necessary to simplify the procedure for disposal of applications for mining leases for minor minerals other than those which require excavation of *in-situ* hard rock, eg. Granite, Stone, Laterite, etc. and to delegate the power of grant of such mining leases of riverbed materials and of brick earth and morrum to the District Magistrates under the provisions of Rules 5(1) and Rules 8 (1) of the WBMMR, 2002 in order to ensure expeditious disposal of such applications ;

The Governor in terms of Notification No. 444-CI/O/ESTT/003/05/A(M1) date 29th November 2006, has been pleased to authorize the District Magistrates of the districts concerned to grant/reject mining lease in respect of minor minerals excepting *in-situ* hard rocks, viz. Stone, Granite, Laterite, in terms of Rules 5 (1) and 8(1) of the WBMMR, 2002.

The District Land & Land Reforms Officer of the district concerned would issue public notices after consulting the concerned Executive Engineer of the Irrigation & Waterways Directorate inviting application for mining lease of minor minerals available in riverbeds and brick earth and morrum for the district and will also process such applications.

The authorities concerned are directed to follow the procedures as laid down hereinbelow for expeditious disposal of mining lease applications for minor minerals, excepting *in-situ* hard rocks, viz. Stone, Granite, Laterite ;

1. An application for mining lease for minor minerals excepting *in-situ* hard rocks, viz. Stone, Granite, Laterite shall be made in Form-A of WBMMR, 2002 along with the requisite certificate, challans specified in Rules 5(2), 5(3) and 5(4) of the WBMMR, 2002 to the District Land & Land Reforms Officer of the concerned district, after a public notice is issued by the concerned District Land & Land Reforms Officer inviting application for granting of mining lease of such minor minerals. However, no public notice inviting application for granting mining lease is required in case of person applying for mining lease in respect of which he is the owner of the land.
2. The District Land & Land Reforms Officer of the district concerned shall examine the mining lease application received

in response to Notification No. 444-CI/O/ESTT/003/05/A (M1) dated 29th November 2006 inviting application for mining lease taking into consideration the applications received before publication of such Notification but still awaiting final disposal and existing mining leases in the light of Rules 5(2), 5(3) and 5(4), and Rules 9(1), 9(2) and 9(3) of WBMMR, 2002 as amended, and shall prepare a feasibility report recommending grant/rejection of the application for grant of mining lease for minor minerals excepting *in-situ* hard rock, viz. Stone, Granite, Laterite and forward it along with the application for mining lease and accompanying documents/certificate to the District Magistrate and Collector of the district concerned for grant/rejection of mining lease application. In case District Land & Land Reforms Officer recommends grant of mining lease, he should also recommend the annual target for raising minor minerals in terms of the norms fixed by the C & I Department in this respect in his feasibility report and authenticate the map of the leasehold area. This process should be completed within six weeks from the date of receipt of the mining lease application.

3. The District Magistrate and Collector of the district concerned shall examine the feasibility report and the documents accompanying the feasibility report and issue a grant order along with a model copy of the mining lease deed prepared in Form E of WBMMR, 2002 with necessary corrections in it to the applicant, if he considers the case fit for granting mining lease. The applicant should be asked to submit eight copies of the final lease deed, the original of which would be on stamp paper within a period of one month. The value of the stamp paper should be assessed by the District Magistrate and Collector on the basis of the royalty realizable from targeted production of mineral. In case the District Magistrate and Collector of the district concerned considers that the application for mining lease should be rejected, the applicant should be heard and a reasoned order should be passed before rejecting the application and communicated to the applicant. This process should be completed within six weeks from the date of receipt of the feasibility report of the D.L. & L.R.O.
4. On submission of final copies of the deed by the applicant, the District Magistrate and Collector of the concerned district shall execute the lease deed and authenticate the map, which will form a part of the lease deed under his seal and signature and send it to the applicant for registering the deed by the Registering Authority. The applicant shall return the registered lease deed along with one stamped and one unstamped copy of the deed to the District Magistrate and Collector. This process should be completed within four weeks from the date of submission of the final lease deed by the applicant.
5. On receipt of the registered lease deed with aforementioned copies from the applicant, the District Magistrate and Collector shall return the stamped copy of the lease deed to the applicant. The District Magistrate and Collector shall send another copy of the deed to the District Land and Land Reforms Officer with the direction to hand over possession of the leasehold area to the applicant for commencement of mining operations. This process should be completed within four weeks from the date of receipt of the registered lease deed from the applicant.
6. The District Land and Land Reforms Officer shall hand over the possession of leased out area to the lessee within two weeks.

Provision of WBMMR, 2002 would be applicable to the mining leases thus granted by the District Magistrates. Procedure for disposal of other minor minerals of *in-situ* hard rock, viz. Granite, Black tones, laterite etc. shall remain as before. This Order will come into force with immediate effect.

By order of the Governor,
SABYASACHI SEN,
Principal Secretary to the
Govt. of West Bengal.

Procedures for disposal of Mining Lease for minor minerals, excepting in -situ Hard Rocks, viz. Stone, Granite, Laterite, etc. in terms of Notification No. 444-CI/O/ESTT/003/05/A (M1) dated 29.11.2006.

1. The D.L. & L.R.O. of the dist. concerned would issue public notices (excepting own land) after consulting the concerned Executive Engineer of the Irrigation & Waterways Directorate inviting application for mining lease in Form-A of W.B.M.M.R.-2002 alongwith the requisite certificate, challans specified in Rules 5(2), 5(3), 5 (4) and Rules 9 (1), 9 (2) and 9 (3) of the W.B.M.M.R.- 2002 as amended.
2. The D.L. & L.R.O. shall examine the mining lease application and prepare a feasibility report recommending grant/ rejection of the application for grant of mining lease and forward it alongwith the application accompanying documents/ certificates to the D.M. & Collector of the Dist. concerned for grant/ rejection of mining lease application. In case District Land & Land Reforms Officer recommends grant of mining lease, he should also recommend the annual target for raising minor minerals in terms of the norms fixed by the C & I Department in this respect in his feasibility report and authenticate the map of the leasehold area. This process should be completed within six weeks from the date of receipt of the mining lease application.
3. The District Magistrate and Collector of the district concerned shall examine the feasibility report and the documents accompanying the feasibility report and issue a grant order along with a model copy of the mining lease deed prepared in Form E of WBMMR, 2002 with necessary corrections in it to the applicant, if he considers the case fit for granting mining lease. The applicant should be asked to submit eight copies of the final lease deed, the original of which would be on stamp paper within a period of one month. The value of the stamp paper should be assessed by the District Magistrate and Collector on the basis of the royalty realizable from targeted production of mineral. In case the District Magistrate and Collector of the district concerned considers that the application for mining lease should be rejected, the applicant should be heard and a reasoned order should be passed before rejecting the application and communicated to the applicant. This process should be completed within six weeks from the date of receipt of the feasibility report of the D.L. & L.R.O.
4. On submission of final copies of the deed by the applicant, the District Magistrate and Collector of the concerned district shall execute the lease deed and authenticate the map, which will form a part of the lease deed under his seal and signature and send it to the applicant for registering the deed by the Registering Authority. The applicant shall return the registered lease deed alongwith one stamped and one unstamped copy of the deed to the District Magistrate and Collector. This process should be completed within four weeks from the date of submission of the final lease deed by the applicant.
5. On receipt of the registered lease deed with aforementioned copies from the applicant, the District Magistrate and Collector shall return the stamped copy of the lease deed to the applicant. The District Magistrate and Collector shall send another copy of the deed to the District Land and Land Reforms Officer with the direction to hand over possession of the leasehold area to the applicant for commencement of mining operations. This process should be completed within four weeks from the date of receipt of the registered lease deed from the applicant.
6. The District Land and Land Reforms Officer shall hand over the possession of leased out area to the lessee within two weeks.

A Note on Revised Procedure for Grant of Mining Leases by District Authorities

➤ In order to simplify the procedure and to cut short the time taken for grant of mining leases for some of the minor minerals, which are most common and extraction of which does not require much technical expertise and use of explosives, District Magistrates have been authorized by the State Government to grant mining lease of minor minerals under Sub-Rule 1 of Rule 5 of West Bengal Minor Mineral Rules, 2002 under Notification No.444-CI / O / ESTT / 003 / 05 / A (M1) dated 29.11.06, which came into effect from 29.12.06, the date of publication in the official Gazette. Such minor minerals, are mainly available in riverbeds, viz., sand, boulders (available in riverbeds of North Bengal), morrum, brick earth (ordinary clay).

➤ Hard rocks, viz., Black Stones (used for road making & other construction purposes), Laterites, Granite have been excluded from the purview of the said revised procedure as mining of these minerals require specialized technical expertise including adhering to Mining Plans approved by competent authority and use of explosives and therefore need be monitored by technical officers.

➤ Procedure for receipt & processing of mining lease applications of aforesaid minor minerals has been notified under No. 445-CI / O / ESTT / 003 / 05 / A (M1) dated 29.11.06, which also came into effect from 29.12.06. Earlier District Land and Land Reforms Officers (DL&LRO) used to issue Availability Reports certifying availability of land applied for mining leases by applicants in the prescribed Form No. B3 of WBMMR, 2002 on reference from Mining Officers who used to receive applications for such mining lease. In order to impart transparency in the whole procedure of grant of mining leases of minor minerals DL&LROs would henceforth publicize the areas, mainly riverbeds from where mining of minor minerals would generally be permitted and such information is expected to be available with DL&LROs. If necessary consultations are to be made with the Ex. Engineer (I&WD) on availability of such material on the riverbeds. Mining of such minerals are mostly undertaken presently under quarry permits issued by them. Authority of publication of such Notifications by the State Government has been incorporated in WBMMR, 2002 by inserting Rule 4A by Notification No. 09 - CI / O / MM - MISC - 07 / 03 / M2 (Pt) dated 9.1.06. Furnishing of Availability Reports of DL&LROs along with the mining lease applications submitted in response to the advertisements is now dispensed with. However, in order to avoid complicity, it may be mentioned that if, on scrutiny of mining lease applications received, it is found that there is any subsisting mining lease in the applied area the said area would not be available for grant of fresh mining lease.

➤ On receipt of applications for mining leases along with requisite documents as per Rule 5 of WBMMR, 2002, (excluding the Availability Report), DL&LROs would scrutinize the same, specially, whether the applied areas consist of any subsisting mining leases. If considered necessary, the applied area may be divided among a number of applicants following the principle stipulated in Rule 9 of WBMMR, 2002 since amended under the aforementioned Notification No. 09 - CI / O / MM - MISC - 07 / 03 / M2 (Pt) dated 9.1.06. The minimum area granted should not be less than 3 acres to ensure scientific mining. Mining of areas less than 3 acres may be undertaken on temporary basis with the help of quarry permits. Maximum areas a person can hold under mining lease in the State have, however, been stipulated as 3 Sq. Km. under Rule 10 of WBMMR, 2002. Details of mining leases already held or applied for by an applicant would be available from the affidavit in

Form B2 of WBMMR, 2002, the applicant is supposed to submit along with the mining lease application. However, DL&LROs may have to consult the Register of Mining Lease applications & subsisting mining leases being maintained in the offices of Mining Officers & for the purpose they may collect the said Registers along with pending mining lease application & subsisting mining lease files from the offices of the concerned Mining Officers. Concentration of mining lease with an individual or group of individuals in the same area should be discouraged as far as possible.

➤ On processing of the mining lease applications DL&LROs would send the same with their views on the availability of areas applied for mining lease & recommendations on the areas to be granted to each of the applicants to the District Magistrates who, after examining the reports of DL&LROs, would issue orders granting mining leases. The procedure has been elaborated in one of the aforementioned Notification No. 445-CI / O / ESTT / 003 / 05 / A (M1) dated 29.11.06. In case of refusal to grant mining lease a chance of hearing is to be given to the applicant and the rejection order should be a reasoned order.

➤ Applications for renewal of subsisting mining leases would also be accepted by the DL&LROs & after considering the lessee's past performances as per the lease terms including timely submission of monthly returns & clearance of mining dues. The renewal application with all accompanying documents and observations of the DL&LRO are to be sent to the District Magistrates who would either grant renewal of the full or part of the applied area or refuse grant of renewal. In case of rejection or grant of a reduced area in response to an application for fresh or renewal of mining lease the applicants should be given an opportunity of hearing and the reasons of the decisions taken on his mining lease application should be made clear.

➤ Assessments of mining dues are also to be made by the DL&LRQs concerned & procedure of collection would remain same as before.

➤ In case any clarification is needed at any stage Joint Secretary, C& I Dep't.(Smt. Roshni Sen, Ph. No. 2214-3624) or the Director, Mines & Minerals may be consulted. Contact No. of DMM is 9433145070 & E-Mail address is dmm@wb.gov.in