

21. WEST BENGAL

21.1 TITLE

West Bengal Minor Minerals Rules, 1973.

21.2 ADMINISTERING AUTHORITY

The mining lease is granted by the State Government or by an officer authorised by the State Government. The applications are to be submitted through the Chief Mining Officer. The quarry permits are issued by the District Authority, i.e. Additional District Magistrate or the Additional Deputy Commissioner in charge of Estate Acquisition or Land Reforms in a district and includes District Magistrate or Deputy Commissioner where no such Additional District Magistrate or Additional Deputy Commissioner exists. The District Authority may authorise the Sub-Divisional Land Reforms Officer and Junior Land Reforms Officer or equivalent officer to issue quarry permits.

The District Authority is the appellate authority against orders passed by any officer subordinate to it. Appeals against the orders passed by the District Authority lie with the State Government.

21.3 TYPES OF CONCESSIONS

Two types of concessions are available under these rules, namely, mining lease and quarry permit. Mining lease means a lease for a period of not below one year while quarrying permit means a permit granted for the extraction and removal of any minor mineral in specified quantities from a specified area.

21.4 PROCEDURE FOR GRANT

A person is not required to obtain a lease for extraction of any minor mineral from his own land, either for use in any cottage industry owned by him, viz. pottery, clay modelling, etc. or any other industry specified by the State Government by a notification, or for his personal use for any other purpose, subject to the conditions that the mineral so extracted shall not be sold without the prior written permission of the District Magistrate or Additional District Magistrate (Estate Acquisition), or Deputy Commissioner or Additional Deputy Commissioner of the district, or Sub-Divisional Officer or Sub-Divisional Land Reforms Officer of the sub-division and without the payment of fees at the rate of Re.0.40 per cubic metre or at such reduced rate specified by the concerned officer, the extracted mineral shall not be converted into bricks or tiles, except where such bricks or tiles are required for his own use; and minerals shall not be extracted from a land within a distance of 45 metres from any railway line, except with the previous written permission of the Railway Administration, or from any reservoir, public road, land or other public works or buildings or inhabited site, except with the previous written permission of the District magistrate or Additional District Magistrate (Estate Acquisition) or Deputy Commissioner or Additional Deputy Commissioner of the District or Sub-Divisional Officer or Sub-Divisional Land Reforms Officer of the sub-division.

21.4.1 MINING LEASE

An application for obtaining a mining lease is to be made in 6 copies in the prescribed form to the State Government or an officer authorised by the State Government in this behalf through the Mining Officer or Chief Mining Officer and must be accompanied by a challan indicating a deposit of Rs.200/- as an application fee. Every application for mining lease must be accompanied by a valid and up-to-date (i) clearance certificate of payment of mining dues, such as royalty, or dead rent and surface rent, water rate, etc. issued by the District Authority or Sub-Divisional Land Reforms Officer in the prescribed form, (ii) income-tax clearance certificate, and (iii) sales tax clearance certificate if the applicant is a dealer under the Bengal Finance (Sales Tax) Act, 1941.

The West Bengal Mineral Development and Trading Corporation, Industrial Finance Corporation, State Trading Corporation, Central Government or any Department of the Central Government or of the State Government are exempted from the requirement of the above certificate. Every application for mining lease must be acknowledged in the prescribed form.

An application for mining lease should be disposed of within one year from the date of its receipt, otherwise it is deemed to have been refused. The period of disposal of application can be further extended by one year by the State Government either on its own motion or on an application by the party applying for the lease if the State Government considers such extension to be fit and deserving. The State Government can refuse to grant the lease over whole or part of the area applied for, after recording reasons in writing and communicating to the applicant. The following procedure is adopted to reduce the delay in disposal of the lease application :

The Mining Officer or Chief Mining Officer, after examination of the application has to forward his recommendations as to feasibility of mining lease applied for to the District Authority under intimation to the Director of Mines and Minerals, West Bengal and the Commerce and Industries Department. Three sets of applications are to be forwarded to the district authority and one set to the Director of Mines and Minerals, West Bengal. This process is to be completed within 3 weeks from the date of receipt of application. The district authority after examination of the application and recommendations, forward his report on availability of land applied for to the Director of Mines and Minerals, West Bengal under intimation to the Government and Mining Officer. Two sets of applications are to be forwarded to the Director of Mines and Minerals, West Bengal alongwith his report. This process is to be completed within 8 weeks from the date of receipt of feasibility report from Mining Officer/Chief Mining Officer. The Director of Mines and Minerals, West Bengal has to examine the report of the District Authority and to forward his technical advice as to feasibility and granting of lease or otherwise to Commerce and Industries Department, within 6 weeks from the date of receipt of the report from the district authority. The Original copy of application alongwith his report is to be forwarded to the Commerce and Industries Department under intimation to the district Authority, Mining Officer or Chief Mining Officer. On receipt of the report from the Director of Mines and Minerals, West Bengal, the Commerce and Industries Department after examination, either grant or reject for reasons to be recorded in writing within a period of 4 weeks from the date of receipt of the report.

If more than one application for a mining lease is received in respect of the same area, preference shall ordinarily be given to the application received first, unless the State Government, for any reasons to be recorded in writing, decides to grant the lease to an applicant whose application was received later in preference to an earlier applicant. However, if an application is received from the West Bengal Mineral Development and Trading Corporation or any department of the State Government in respect of any area, preference shall be given to them even if their application is received later.

When required by the State Government, an applicant for the grant of a mining lease shall deposit Rs.300/- for preliminary expenses for the grant of the lease. The lease shall be executed within 6 months from the date of the order granting the lease and if it is not executed within this period, the grant order shall be deemed to have been revoked. However, the State Government may permit execution after the due date if it is satisfied that the applicant is not responsible for the delay. The applicant must deposit a sum of Rs.1,000/- before the lease is executed, for due observance of the terms and conditions of the lease. When the lease is granted, arrangements shall be made, at the expense of the lessee, for the survey and demarcation of the area granted under the lease.

An application for renewal of a mining lease must be made to the State Government or to the officer duly authorised by the State Government in this behalf, through the Chief Mining Officer or such other officer as may be authorised for this purpose, in the prescribed form at least six calendar months before the date on which the lease is due to expire. Every application for renewal must be accompanied by a fee of Rs.100/- and the valid and up-to-date certificates for income tax clearance, sales tax clearance and mining dues clearance, fully described under application for grant. These certificates are not required in the case of West Bengal Mineral Development and Trading Corporation, State Trading Corporation, Industrial Finance Corporation, Central Government or any department of the Central or State Government. The application for renewal must be disposed of within nine months from the date of its receipt. If the application is not disposed of before the date of expiry of the lease, the period of that lease is deemed to have been extended for a further period of six months or ending with the date of receipt of orders of the State Government thereon, whichever is shorter. The State Government or the officer authorised in this behalf may refuse to renew a mining lease over the whole or part of the area covered by the original lease for which renewal is sought. No renewal shall be granted if the work of the lessee is considered unsatisfactory by the State Government.

21.4.2 QUARRY PERMIT

An application for quarry permit must be submitted to the District Authority or any officer authorised in this behalf by the State Government, in the prescribed form, accompanied by a challan showing a deposit of Rs.50/-. In case of rayatti land, the applicant must produce a letter of consent from the occupant of the land to the effect that he has no objection to the use of the said land by the holder of the permit. An application for quarry permit shall not be granted unless the mining dues of the applicant, if any, are cleared before hand. The royalty is required to be paid in advance before the quarry permit is granted.

An application for a quarry permit must be disposed of within 15 days of its receipt and if it is not so disposed within this period, it shall be deemed to have been refused and the application fee shall be refunded to the applicant. In granting quarry permits, the rules of priority prescribed for grant of mining lease must be followed, as far as possible. When an application for a quarry permit is rejected, the fact of such refusal together with the reasons for the refusal must be communicated to the applicant.

21.5 PERIOD AND AREA

Ordinarily a mining lease is granted for a period not exceeding five years but if the State Government is of the opinion that a longer period is necessary for proper development and mechanisation of the mine and working on a larger scale, a longer period of lease, not exceeding 20 years, may be granted. This restriction is not applicable in case of the West Bengal Mineral Development and Trading Corporation Ltd., who can be granted a lease for a period not exceeding 20 years. The lease may be renewed for a period not exceeding the period of the original lease. Quarry permit is granted for a period which shall not exceed three months.

The total area that a person can acquire under one or more mining leases should not exceed 3 sq.kms. The State Government, in the interest of mineral development, can relax the above provision and allow any person to acquire one or more mining leases exceeding the above limit. This restriction is not applicable in case of the West Bengal Mineral Development and Trading Corporation Ltd. The length of an area held under a mining lease shall not ordinarily exceed four times its breadth and the area shall as far as possible be compact and regular in shape. Quarry permits are granted for an area not exceeding five acres.

21.6 TRANSFER, SURRENDER, TERMINATION

The lessee cannot assign, mortgage or transfer the mining lease or any right, title or interest therein, or enter into or make any arrangement, contract or understanding by which he may be directly or indirectly financed or controlled by any person or body of persons to a substantial extent, without the consent in writing of the State Government. The transferee should produce a challan showing a deposit of Rs.100/- in favour of the State Government, income tax clearance certificate, sales tax clearance certificate, if he is a dealer under West Bengal Finance (Sales Tax) Act, 1941 and certificate of clearance of mining dues in the prescribed form. The provision of producing the above mentioned certificates shall not be applicable, if the lease is transferred to Industrial Finance Corporation or the State Trading Corporation of India Ltd. or the West Bengal M.D.T.C. Ltd., or any other Central or State Government agency or a nationalised bank.

The lessee may surrender the lease any time by giving not less than 6 months notice in writing to the State Government and after paying all outstanding dues of the State Government.

The State Government after consulting the Central Government, can make a premature termination of a mining lease and grant a fresh lease in favour of a Government Company owned or controlled by the Government if it is of the opinion that it is expedient in the interest of regulation of a mines and development of a mineral.

The State Government may also cancel a mining lease :

- (i) if the lessee transfers the lease without the consent of the State Government; or
- (ii) if the lessee does not allow entry or inspection by the authorised officers of the State Government or contravenes the provisions regarding payment of dead rent or for refusal to collect minor minerals by persons permitted by the State Government for his private use; or
- (iii) for breach of any other term or condition of the lease if the lessee does not remedy the breach within 60 days from the date of a notice given by the State Government for this purpose.

The quarry permit is not transferable. It should be surrendered to the issuing officer within a week of its expiry. The issuing authority can revoke the quarry permit before the date of its expiry even though the permit holder is not guilty of contravention of any of the condition of the permit.

21.7 RENTS AND ROYALTIES

Dead rent : The holder of a mining lease must pay, for every year, yearly dead rent at the rate prescribed in Schedule-II. However, the lessee shall be liable to pay either the dead rent or royalty in respect of each mineral, whichever is higher, but not both. The rates of dead rent may be revised by the State Government at any time by notification. The dead rent is payable in four equal quarterly installments on the days fixed in the lease deed.

Schedule-II (Rates of Dead rent)

All minerals	...	Rs.80/- per hectare or Rs.32/- per acre.
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Surface rent : The holder of a mining lease shall pay for the surface area used by him for the purpose of the mine, surface rent at the rates fixed by the District Authority and specified in the lease.

Royalty : The holder of the mining lease or quarry permit shall pay royalty in respect of any minerals removed or consumed by him or by his agent, manager, employees or contractor at the rate prescribed in Schedule-I. The State Government may revise the rates of royalty but shall not enhance the rates more than once during any period of four years. The royalty is payable in four equal quarterly installments on the days fixed in the lease deed.

Schedule-I (Rates of Royalty)

Sl. No.	Name of Mineral	Rate of royalty
1.	Brick earth ...	Rupees Twenty per 100 cft.
2.	Sand ...	Rupees Fifteen per 100 cft.
3.	Stone materials ...	Rupees Twenty per 100 cft.
4.	Gravels ...	Rupees Thirteen & paise fifty per 100 cft
5.	Morrum ...	Rupees Ten per 100 cft.
6.	Other Minerals ...	Rupees Ten per 100 cft.
7.	Granite Black variety ...	Rupees Five hundred per Cu. Meter
8.	Granite coloured variety ...	Rupees Four hundred per Cu. Meter
9.	Granite Grey variety ...	Rupees Three hundred per Cu. Meter

21.8 DISPUTE SETTLEMENT PROCEDURE

Any person aggrieved by an order made by the District Authority or by any officer duly authorised by the District Authority, may within 30 days from the date of communication of the order to him, prefer an appeal against the order to (i) the State Government if the order appealed against was made by the District Authority or, (ii) the District Authority if the order appealed against was passed by any officer subordinate to the District Authority. The memorandum of appeal must be accompanied by a Treasury Challan showing the deposit of a fee of Rs.20/-. The appeal may be entertained even after the aforesaid period of 30 days if the appellant satisfied that he had sufficient reason for not preferring the appeal within the prescribed period. The order passed on appeal shall be final and there shall be no second appeal.

The State Government may, on application from an aggrieved party, within 30 days from the date of communication, or on its own motion within 6 months from the date of passing of an order review the order on the ground of discovery of a new and important matter not known to it when the order was passed or on any other ground considered expedient for mineral development.