

The
Kolkata Gazette
सत्यमेव जयते



Extraordinary
Published by Authority

MAGHA 11]

MONDAY, JANUARY 31, 2022

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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
DEPARTMENT OF INDUSTRY, COMMERCE & ENTERPRISES
Mines Branch
4, Abanindranath Tagore Sarani (Camac Street), Kolkata-700016

No.: 48-ICE/O/MIN/GEN-MIS/17/2021

Date: 25.01.2022

NOTIFICATION

In exercise of the powers conferred by section 15 and section 23C of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) the Governor is pleased hereby to make the following rules:—

CHAPTER I

PRELIMINARY

1. **Short Title and Commencement:** (1) These Rules may be called the West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021.
 - (2) They shall extend to the entire State of West Bengal.
 - (3) They shall come into force from the date of their publication in the *Official Gazette*.
2. **Definitions:** (1) In these rules, unless the context otherwise requires,—
 - (i) “Act” means the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), as subsequently amended from time to time;
 - (ii) “Authorised Officer” means such officers as authorised under these rules;
 - (iii) “Carrier” means any mode of conveyance or facility by which sand is transported from one place to another and includes mechanised device, person, animal or cart;
 - (iv) “Centralized Portal” means a common web-based platform for uploading details and obtaining authorisations and registrations in connection with sand;
 - (v) “Check post/gate” means any permanent or temporary structure or tracking device which may be enabled with the latest technology to read, record, retrieve and analyse information, and/or manned by Authorised Officer(s) and/or other officers authorised by the State Government, to inspect, search, and verify quality, quantity, information and documents for the purposes of these rules and exercise such other powers as specified under the rules;

- (vi) "District Level Sand Committee" means a committee for each district formed under these rules;
- (vii) "Dredging/De-silting" means the process of removal of material from a river, reservoir, dam, barrages, and/or any other water body.
- (viii) "E-challan" means a document generated on the centralized portal under these rules evidencing due payment under these rules;
- (ix) "Environmental Clearances" means the clearances as provided under these rules;
- (x) "Government Company" means a Government company as defined in the Companies Act, 2013;
- (xi) "internal Permit" means a document generated on the centralized portal under these rules authorising transportation of sand from the place where sand is obtained to a place where sand is to be stored;
- (xii) "Manufactured Sand" means artificial sand produced from crushing minor minerals to be used as construction aggregate;
- (xiii) "Operator" means any person authorized for carrying out mining of river sand and/or transportation and/or storage and/or sale of sand and/or any other allied services in connection therewith under these rules;
- (xiv) "Overburden" means the waste or spoil that lies above a mine and which is not re-handled for reclamation or restoration of land at the time of closure of the mine.

Explanation: For the purpose of these rules, overburden shall also include such tailings and inter-burden which are not re-handled for reclamation or restoration of land at the time of closure of the mine. "Tailing" means the material that remains after economically valuable components have been extracted from the generally finely milled ore. "Inter-burden" means material that lies between two areas of economic interest;

- (xv) "Person-in-charge of a carrier" shall normally mean the driver of the carrier if no other person has been designated as such by the owner of the carrier and/or the owner of the sand under transportation;
- (xvi) "Person-in-charge of a stockyard/depot" shall normally mean the owner of the stockyard/depot if no other person has been designated as such by the owner of the stockyard/depot and/or the owner of the sand being stored;
- (xvii) "Property" means property as specified in rule 25;
- (xviii) "River Sand" means and includes ordinary sand, other than sand used for prescribed purposes, along with the stones, boulders, pebbles and gravels accumulated in the river bed by natural phenomenon;
- (xix) "Rules" means the West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021, as subsequently amended from time to time;
- (xx) "Sale/Sell" means buying for the purposes of selling, selling, supplying, distributing, trading or engaging in any such transaction of sand for commercial purposes;
- (xxi) "Sand" means and includes river sand, material obtained from dredging/de-silting, overburden, manufactured sand, and any other thing as specified by the State Government by notification in the *Official Gazette*;
- (xxii) "Sand Mine" means the area specified in the Sand Mining Lease within which sand mining can be undertaken and includes the non-mineralised area required and approved for the activities falling under the definition of mine as provided in Mines Act, 1952;
- (xxiii) "Sand Mining Lease" means a lease granted by the State Government for the purpose of undertaking river sand mining, and includes a sub-lease granted for such purpose;
- (xxiv) "Sand Mining" means any or all activities undertaken for the purpose of winning river sand;
- (xxv) "Sand Mining Operations" means and includes river sand mining and/or transportation and/or storage and/or sale of sand and/or any other allied services in connection therewith under these rules;

- (xxvi) "Sand Mining Plan" means the mining plan as provided under rule 6;
- (xxvii) "State Government" for the purpose of these rules means the Department of Industries, Commerce and Enterprise of the Government of West Bengal;
- (xxviii) "State Level Sand Committee" means a committee for State formed as per rule 19;
- (xxix) "Stockyard/Depot" means a place where sand is stored and stocked for commercial purposes;
- (xxx) "Storage/Store" means storing and stocking of sand for commercial purposes;
- (xxxi) "Transport/Transportation" means carrying sand from one place to another by motorized or non-motorised vehicle or by head-load for commercial purposes;
- (xxxii) "WBMDTCL" means the West Bengal Mineral Development and Trading Corporation Limited incorporated under Companies Act, 1956 on 23 February 1973, wholly owned by the Government of West Bengal and under the direct administrative control of Department of Industry, Commerce and Enterprises.
- (2) Words and expressions used and not defined in these rules, but defined in the Act, shall have the same meanings as respectively assigned to them in the Act.
- (3) **Applicability of these Rules:** (1) Notwithstanding anything contained in the West Bengal Minor Mineral Concession Rules, 2016, West Bengal Minor Minerals (Auction) Rules, 2016, West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage Rule, 2002 or any other rule for the time being in force in the State of West Bengal, from the date of commencement of these rules, these rules shall be applicable for:—
- (i) carrying out sand mining operations;
 - (ii) regulating and monitoring sand mining operations;
 - (iii) prevention of illegal sand mining operations; and
 - (iv) for purposes connected therewith.
- (2) Notwithstanding anything contained in the West Bengal Minor Mineral Concession Rules, 2016, West Bengal Minor Minerals (Auction) Rules, 2016, West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage Rule, 2002 or any other rule for the time being in force in the State of West Bengal, and terms and conditions of any lease for mining river sand, immediately upon the commencement of these rules, unless otherwise explicitly stated in these rules, and subject to such conditions as provided in these rules, provisions of these rules shall be applicable to:—
- (i) such persons holding leases for mining river sand from before the commencement of these rules; and
 - (ii) such persons carrying out sand mining operations from before the commencement of these rules.

CHAPTER II

GENERAL RESTRICTIONS ON UNDERTAKING SAND MINING

- (4) **Sand Mining to be under Sand Mining Lease:** (1) No person shall undertake any sand mining in any area, except under and in accordance with the terms and conditions of a sand mining lease granted under these rules and provisions of these rules.
- (2) The State Government, upon consultation with the District Level Sand Committee, may grant sand mining lease to West Bengal Mineral Development & Trading Corporation Limited or any other government company or government authority or statutory body, in accordance with the Act and these rules.
 - (3) The District Level Sand Committee, with the prior approval of State Government, may grant sand mining lease to persons other than West Bengal Mineral Development & Trading Corporation Limited or any other government company or government authority or statutory body by auction only. The auction shall be in accordance with Chapter VIII (*Procedure for Grant of Mining Lease*) of the West Bengal Minor Mineral

Concession Rules, 2016 and the West Bengal Minor Mineral (Auction) Rules, 2016 or such other law applicable on grant of concessions for minor minerals by auction as prescribed by the State Government from time to time.

- (4) Such persons who are granted sand mining leases under sub-rule (2) and (3) and any operator selected and appointed under sub-rule (5) shall register itself on the centralised portal in such manner as may be specified by the State Government in a notification published in the *Official Gazette*.
- (5) Such person holding sand mining leases under sub-rule (2) may select and appoint such operators, by competitive bidding process or any other manner, for undertaking any or all sand mining operations in accordance with the sand mining lease and these rules.
- (6) Such persons holding mining leases or any other mineral concessions for sand before the commencement of these Rules, shall register themselves on the centralized portal within sixty days from the commencement thereof.
- (5) **Period of Sand Mining Lease:** (1) The period of sand mining lease shall be minimum five years and maximum twenty years.
(2) The date on which the instrument of sand mining lease is duly registered shall be the date of commencement of the period of sand mining lease.
- (6) **Sand Mining Plan:-** (1) The holder of letter of intent or government order by whatever name called for grant of sand mining lease within such time as provided therein, shall submit a sand mining plan including a sand mine closure plan duly prepared by a Recognised /Qualified Person of Indian Bureau of Mines for approval of the State Government.
(2) Every sand mining plan duly approved under these rules shall be valid for the entire duration of the sand mining lease.
(3) The sand mining plan as specified under sub-rule (1) shall be reviewed from time to time.
(4) The holder of sand mining lease shall carry out sand mining in accordance with the sand mining plan as approved under this rule.
- (7) **Environmental aspects of Sand Mining:** – The environmental aspects of mining as provided in Chapter V (*Environmental Aspects of Mining*) of the West Bengal Minor Minerals Concession Rules, 2016, as amended from time to time, or such other law applicable on minor minerals as prescribed by the State Government from time to time, shall *mutatis mutandis* apply to sand mining.
- (8) **Lapsing, Transfer and Amalgamation of Sand Mining Leases:-** (1) The lapsing of sand mining lease for non-commencement or discontinuance of sand mining within the specified period, transfer of a sand mining lease and amalgamation of sand mining leases shall be in accordance with the terms and conditions specified in the sand mining lease deed,
(2) An application against lapsing of mining lease for sand for non-commencement or discontinuance of sand mining within the specified period or transfer of a sand mining lease or amalgamation of mining leases for sand under any law pending at the commencement of these Rules, shall be disposed of in accordance with such law.
- (9) **Prohibition on Sand Mining under Specified Conditions:-** (1) No sand mining shall be carried out within two hundred metres, upstream and downstream, measured from the centre line of any bridge, regulator or similar hydraulic structure and from hundred meters from the endpoint of bank protection works.
(2) No sand mining shall be carried out beneath three metres of the riverbed or ground water level, whichever is less.
(3) No sand mining/dredging shall be carried out within a distance of two km of a barrage axis or dam on a river unless otherwise permitted by the concerned Executive Engineer and such distance shall be reckoned across an imaginary line parallel to the barrage, or dam axis, as the case maybe,

- (4) No sand mining shall be carried out beyond the central one third of the riverbed keeping a safe zone of one hundred metre from the existing river bank or within 50 metres of any embankment, canal bridge, road, public building.
- (5) The State Government may add further conditions and/or modify the aforesaid conditions by notification published in the *Official Gazette*.

CHAPTER III

PAYMENTS

10. Payment of Royalty and Rent and/or other Charges:— (1) Such person holding sand mining leases under sub-rule (2) of rule 4 shall pay royalty in respect of sand sold by it or its operator, agent, manager, employee, contractor or sub-lessee, and/or rent and/or other charges as provided under the sand mining lease, at such rate as notified by State Government in the *Official Gazette*.

- (1) Such person holding sand mining leases under sub-rule (3) of Rule 4 shall pay royalty in respect of sand removed or consumed by it or its operator, agent, manager, employee, contractor or sub-lessee, and/or rent and/or other charges as provided under the sand mining lease, at such rate as notified by State Government in the *Official Gazette*.
- (2) Such persons who are authorised by the Government of West Bengal for disposal of material accumulated during dredging/de-silting and/or overburden and/or m-sand, as may be applicable, shall pay royalty in respect of such material sold by it or its operator, agent, manager, employee, contractor or sub-lessee, and/or rent and/or other charges as notified by Government of West Bengal in the *Official Gazette*.
- (3) The payments specified in sub-rule (1) to (2) shall be made on the centralised portal in such manner as specified by State Government by notification in the *Official Gazette*.
- (4) An e-challan shall be generated on the centralised portal against due payment under this rule in triplicate carried in accordance with Rule 15.
- (5) The State Government, by notification published in the *Official Gazette*, may enhance or reduce the rates at which royalty and/or rent and/or other charges shall be payable under sub-rules (1) to (3) with effect from such date as may be specified in the said notification:

Provided that State Government shall not increase the rate of royalty more than once during any period of three years.

CHAPTER IV

SHORTTERM MINING LICENSE

11. Grant of Short Term Sand Mining License:— (1) The District Level Sand Committee or West Bengal Mineral Development & Trading Corporation Limited, with the prior approval of the State Government, may grant short-term mining license for carrying out sand mining under exceptional circumstances.

Explanation:— Exceptional circumstances may mean and include judicial intervention, non-availability of continuous stretch of the minimum area specified under these Rules due to hydro-geological conditions of the rivers and unsuitability of any stretch for sustaining the period specified in these rules owing to possible change of river-flow pattern.

- (2) The provisions of rules 4 (*Sand Mining to be under Sand Mining Lease*), 5 (*Period of Sand Mining Lease*), 6 (*Sand Mining Plan*) and 7 (*Environmental aspects of Sand Mining*) shall not apply to short term mining license granted under this Chapter.
- 12. Area of Short Term Sand Mining License:**— A short-term sand mining license granted under rule 11 shall not be for an area above three hectares.
- 13. Period of Short Term Sand Mining License:**— A short-term sand mining license granted under rule 11 shall not be for a period exceeding ninety days.

14. **Conditions of Short Term Sand Mining License:**— A short-term sand mining license granted under this Chapter, shall be subject to such conditions as specified by the State Government by notification published in the Official Gazette.

CHAPTER V

GENERAL RESTRICTIONS ON TRANSPORTATION, STORAGE AND SALE OF SAND

15. **Prohibition on Transportation, Storage and Sale of Sand:**— (1) No person shall transport sand without being duly authorized by the State Government and carrying a valid internal permit or e-challan generated on the centralized portal.
- (2) No person shall store and/or sell sand and/or carry out any other allied activities without being duly authorized by the State Government.
- (3) A person engaged in the transportation of sand shall register itself and every carrier used by it for transporting sand on the centralized portal, in such manner, as may be specified by the State Government in a notification published in the *Official Gazette*.
- (4) A person engaged in the storage of sand shall register itself and every such stockyard/depot used for storage of sand on the centralized portal, in such manner, as may be specified by the State Government in a notification published in the *Official Gazette*.
- (5) A person engaged in sale of sand shall register itself on the centralized portal, in such manner as may be specified by the State Government in a notification published in the *Official Gazette*.
- (6) The persons specified in sub-rule (3), (4) and (5) who are engaged in transportation and/or storage and/or sale of sand from before the commencement of these rules, shall register themselves on the centralized portal within sixty days from the commencement thereof.
- (7) Within such time as may be specified by the State Government in a notification published in the *Official Gazette*, such other persons engaged in any activity in connection with sand, if not already registered on the date of publication of such notification in the manner specified in such notification, shall register themselves with the State Government.
- (8) The time period, terms and conditions of the registration and fees shall be as specified by the State Government in a notification published in the *Official Gazette*.
16. **General Obligations:**— (1) Such person holding sand mining lease under sub-rule (2) or (3) of rule 4 or any operator selected and appointed in accordance with sub-rule (5) of Rule 4 shall record and upload amount of sand mined on the centralised portal.
- (2) Every person in-charge of stockyards/depots wherein sand is being stored, shall daily record and maintain proper stock register(s) of the storage of sand in the stockyards/depots, in both physical and electronic form at the stockyard/depot, and also daily upload the same on the centralised portal.
- (3) Every operator including the person in-charge appointed by such operator, shall in addition to the aforementioned obligations, also comply with such additional obligations as directed by the District Level Sand Committee and the State Government from time to time under these rules.

CHAPTER VI

PREVENTION OF ILLEGAL SAND MINING OPERATIONS

17. **Authorisation of West Bengal Mineral Development & Trading Corporation Limited:**—

- (1) The State Government hereby authorises West Bengal Mineral Development & Trading Corporation Limited as the nodal agency for monitoring sand mining operations.
- (2) Without prejudice to the generality of sub-rule (1), West Bengal Mineral Development & Trading Corporation Limited shall have the powers to:—
- (i) maintain and operate a centralised portal for *inter alia* storing, retrieving and monitoring information of persons registered on the centralised portal;

- (ii) monitor sand mining operations;
 - (iii) check illegal sand mining, transportation, storage and sale of sand;
 - (iv) protect the revenue recoverable from sand mining operations;
 - (v) promote sustainable mining;
 - (vi) ensure compliance of various conditions imposed in the sand mining lease deed and other consents and approvals;
 - (vii) ensure that the stockyards/ depots have stock of sand for meeting demand of sand for a period of not more than 3 (three) months at any given point of time;
 - (viii) set up one or more 24X7 control rooms for receiving complaints with respect to sand mining, transportation, storage and sale;
 - (ix) recommend measures to District Level Sand Committee for efficient sand mining operations including transportation, storage and sale of sand and monitoring and regulating the same;
 - (x) report to the District Level Sand Committee and/or the State Level Sand Committee and/or State Government regarding any contraventions of the rules and/or likely contraventions of the rules; and
 - (xi) such other powers as State Government may specify by a notification published in the *Official Gazette*.
- 18. Constitution of District Level Sand Committees:** – (1) The State Government may establish a District Level Sand Committee in each district for carrying out the functions under these rules by notification published in the *Official Gazette*.
- (2) The constitution and terms of reference of District Level Sand Committee shall be as specified by the State Government by notification published in the *Official Gazette*.
- 19. Constitution of State Level Sand Committee:**– (1) The State Government may establish a State Level Sand Committee by notification published in the *Official Gazette*.
- (2) The constitution and terms of reference of the State Level Sand Committee shall be as specified by the State Government by notification published in the *Official Gazette*.
- 20. Powers of District Level Sand Committee and State Level Sand Committee:**– (1) The District Level Sand Committee may either *suo moto* or upon intimation by State Government and/or West Bengal Mineral Development & Trading Corporation Limited, have the powers in the respective districts, to:–
- (i) regulate and supervise sand mining operations;
 - (ii) demarcate or require to be demarcated sand mines with geo-coordinates or geo-fences at the cost of the operator, and establish weigh-bridges;
 - (iii) install or require to be installed surveillance systems at the cost of the operators at sand mines, stockyards/ depots, carriers, or at any other place as it may consider necessary;
 - (iv) take steps as required for tracking carriers such as colour coding, patrolling, establishing check points and barriers, radio frequency identification (RFID) tags, and global positioning system (GPS) tracking devices;
 - (v) ensure the required information is uploaded on the centralised portals for regulating sand mining operations including sand mining, transportation, storage and sale of sand such as registrations of for transportation, storage and sale and generation of e-challans;
 - (vi) enforce and recover penalties to be applicable for delay or failure to upload information on the centralised portal;
 - (vii) take such actions as required for prevention of illegal sand mining operations including sand mining, transportation, storage and sale of sand;
 - (viii) take such actions as required for prevention of misuse of sand, and other such illegal and irregular activities in connection with sand mining operations including sand mining, transportation, storage and sale of sand;

- (ix) take such steps as required to enforce environmental aspects of mining as laid down by these Rules, conditions provided in the environmental clearances, other applicable laws, judgements and orders of judicial bodies;
 - (x) enforce and recover penalties under these rules;
 - (xi) enter and inspect under these rules;
 - (xii) search under these rules;
 - (xiii) ensure maintenance of registers and forms by the holder of sand mining lease for the purposes of these rules;
 - (xiv) establish such administrative and enforcement mechanism as necessary at sub-division or block level for purposes of these rules;
 - (xv) direct Authorised Officers to take such steps as required for exercise of its powers under this sub-rule; and
 - (xvi) such other powers as State Government may specify by a notification published in the *Official Gazette*.
- (2) The State Level Sand Committee may either *suo moto* or upon intimation by State Government and/or West Bengal Mineral Development & Trading Corporation Limited, have the powers in the State, to:
- (i) guide, monitor and supervise sand mining operations;
 - (ii) do such acts as necessary for prevention of illegal mining, transportation, storage and sale of sand; and
 - (iii) such other powers as State Government may specify by a notification published in the *Official Gazette*.
- 21. Authorised Officers:**— The State Government may from time to time authorise officers as Authorised Officers for carrying out duties and exercising rights specified under the rules, by notification published in the *Official Gazette*.
- 22. Power to Enter and Inspect:**— (1) For the purpose of ascertaining the position of the working, actual or prospective, of any sand mine or abandoned sand mine or for any other purpose connected with these Rules, any Authorised Officer either *suo moto* or as directed by the District Level Sand Committee and/or the State Level Sand Committee, shall have the power to:
- (i) enter, break open, and inspect any sand mine and/or stockyards/depots and/or carrier;
 - (ii) survey and take measurements in any sand mine, and/or stockyards/depots;
 - (iii) weigh, measure or take measurements of the stocks of sand lying at any sand mine and/or stockyards/depots and/or carrier;
 - (iv) examine any physical or electronic document, including e-challan, book, register, or record or any other documents in the possession or power of any person having the control of, or connected with, any sand mine and/or stockyard/depots and/or carrier and place marks of identification thereon, and take extracts from or make copies of such document, book, register or record;
 - (v) order the production of any such document, book, register, record, as is referred to in sub-rule (1) (iv);
 - (vi) examine any person having the control of, or connected with, any sand mine and/or stockyards/depots and/or carrier; and
 - (vii) may stop and check any carrier at any place and the person in charge of the carrier shall furnish such information as may be required by Authorised Officer.
- (2) The Authorised Officer carrying out their duties under sub-rule (1) shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 and every person to whom an order or summons is issued by virtue of the powers conferred by sub-rule (1) shall be legally bound to comply with such order or summons, as the case may be.
- (3) Any obstruction to the Authorized Officer performing their duties under sub-rule (1), shall be an obstruction to the duties of a public servant under the Indian Penal Code, 1860.
- (4) The operator of the sand mines and/or the person in-charge of the stockyard/depot and/or carrier shall facilitate and provide ail assistance to the Authorized Officer to perform their duties under sub-rule (1),

- 23. Power to Search:**— (1) If the District Level Sand Committee and/or the State Level Sand Committee has reasons to believe that provisions of these rules have been contravened or are likely to be contravened, it may direct the Authorised Officer, and such Authorised Officer may search any sand, document, place or things.
- (2) If the Authorised Officer *suo moto* has reasons to believe that provisions of these Rules have been contravened, such Authorised Officer may search any sand, document, place or things.
- (3) The provisions of Section 100 of the Code of Criminal Procedure, 1973, shall apply to every such search carried out under sub- rule (1) and (2).
- 24. Power to Evict Trespassers:**— When any person trespasses into any land in contravention of the provisions of these rules, such trespasser may be served with an order of eviction by the District Level Sand Committee or the State Government and the District Level Sand Committee or the State Government may, if necessary, obtain the help of police to evict the trespasser from the said land.
- 25. Power to Seize:**— (1) Whenever any person carries out any sand mining operations or causes to be carried out any sand mining operations without any lawful authority, and for that purpose, uses any tool, equipment, carrier, or any other thing (“property”), such property shall be liable to be seized by the Authorised Officer.
- (2) Every Authorized Officer seizing any property under these Rules shall photograph the property and place on such property a mark in such manner as may be specified, indicating that the same has been so seized and shall raise a ticket on the centralized portal and inform the person from whom the property is seized, in writing about such seizure and the applicable amount for release of property so seized.
- (3) The property may be released upon payment of applicable amount as may be specified by the State Government in a notification published in the *Official Gazette*:
- (4) The applicable amount for release of property shall be paid within one month from the date of knowledge seizure.
- (5) If the same property is seized more than one time under this Rule, it may be released only on payment of at least fifty percent of the showroom value of the property.
- (6) If the specified amount is not duly paid within the specified time, the authority specified by the State Government by notification published in the *Official Gazette*, may confiscate and auction such property.
- 26. Power to Recover:**— Whenever any person carries out any sand mining operations without any lawful authority, the District Level Sand Committee or the State Government may recover the sand so raised or transported or stored or to be sold, or where such sand has already been disposed of, the price thereof, and may also recover from such person the royalty and rent or any other charges, as the case may be, for such period during which the sand mines were occupied by such person without any lawful authority.
- 27. Recovery of certain Sums as Arrears of Land Revenue:**— Any rent, royalty, tax, fee or other sum due under these rules or under the terms and conditions of any sand mining lease may, be recovered in the same manner as an arrear of land revenue, under applicable laws.

CHAPTER VII

PENALTY AND COMPOUNDING OF OFFENCES

- 28. Penalty for Contravention:**— (1) Any person who obtains any right in a sand mining lease or short term sand mining license, or carries out any sand mining operation in contravention with these Rules or any notification, direction issued thereunder or any condition, limitation or restriction subject to which any approval, registration, authorization, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted shall be punishable in such manner as may be specified by the State Government by notification published in the *Official Gazette*, within the limit as specify in sub-section(2) of section 21 of the Mines & Minerals (Development & Regulation) Act, 1957.
- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under these rules shall be cognizable in nature.

29. Cognizance of Offences:— No court shall take cognizance of any offence punishable under these rules except upon complaint in writing made by District Level Sand Committee or State Level Sand Committee or Authorised Officer or any other person authorised by the State Government in a notification published in the *Official Gazette*.

30. Offences by Companies:— (1) If the person committing an offence under these rules is a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-rule shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-rule (1), where an offence under these rules has been committed with the consent or connivance of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly,

Explanation:— For the purposes of these rules “company” means anybody corporate and includes a firm or other association of individuals; and “director” in relation to a firm means a partner in the firm.

31. Compounding of Offences:— (1) Any offence punishable under these rules, may either before or after the institution of the prosecution, be compounded by such authority and in such manner as may be specified by the State Government in a notification published in the *Official Gazette*.

(2) The accused person may submit a compounding application, before such authority and in such format as may be specified by the State Government in a notification published in the *Official Gazette*, within fifteen days from the date of knowledge of the offence.

(3) Upon receipt of compounding application within the specified time under sub-rule (2), if the specified authority is satisfied that the offence committed is compoundable, it may compound the offence on such conditions as it may deem appropriate.

(4) No order rejecting compounding under this Rule shall be made unless the accused person is given a reasonable opportunity of being heard in the matter.

(5) When an offence is compounded under this rule:

(i) no further proceedings shall be commenced against such person under these Rules;

(ii) if any proceedings under these Rules have already been commenced against such person, such proceedings shall not be further proceeded with; and

(iii) the accused person, if in custody, under these rules, shall be discharged and the property seized shall, if it is not to be so retained, be released.

Provided that the same offence shall not be compounded more than twice.

CHAPTER VIII

APPEAL AND REVIEW

32. Appeal and Review:— (1) **Appeal:**— (i) Any person aggrieved by an order made by competent authority under these rules, may, within thirty days from the date of communication of the order to him, prefer an appeal against the order.

(ii) The memorandum of appeal shall be made to the concerned Divisional Commissioner.

(iii) Each memorandum of appeal shall be accompanied by a treasury challan showing the deposit of a fee of rupees one thousand in the Government Treasury or sub-Treasury of the District concerned or in any branch of the State Bank of India doing treasury business or in the Reserve Bank of India at the credit of the State Government under the specified head.

- (iv) An appeal may be entertained even after the period specified in sub-rule (1) (i), if the applicant satisfies the applicable appellate authority that he had sufficient reasons, for not preferring the appeal within the specified period,
- (v) The order passed on an appeal shall be final and there shall be no second appeal.
- (2) **Review:**— The Divisional Commissioner as the case may be may, on an application from an aggrieved party, within thirty days from the date of communication of the order, or on its own motion, within six months from the date of passing of an order, review the order on the ground of the discovery of a new fact not known to it when the order was passed or on any other ground considered necessary for mineral development.

CHAPTER IX

MISCELLANEOUS

33. **Dredging/De-silting:**— The Government of West Bengal may authorise West Bengal Mineral Development & Trading Corporation Limited to carry out dredging/desilting activities in accordance with the directions of the Government of West Bengal.
34. **Pending Applications:**— All applications for grant of sand mining lease received prior to the commencement of these rules wherein the sand mining lease deed has not been duly registered, shall be registered only after permission from the state government.
35. **Power to Rectify Apparent Mistakes:**— Nothing in these rules shall be deemed to limit or otherwise affect the inherent power of the State Government to rectify any clerical, arithmetical, accidental and similar other types of errors in any order passed by it or to direct the rectification of any such error in any instrument of which the State Government is a party.
36. **Power to Remove Difficulty:**— If any difficulty arises in giving effect to the provisions of these rules, the State Government may pass such order consistent with the provisions of these Rules for removing such difficulty.
37. **Protection of Action taken in Good Faith:**— No suit, prosecution or other legal proceedings shall lie against any person for anything that is done or intended to be done under these rules in good faith.

By order of the Governor,

VANDANA YADAV
Secretary to the Governemnt of West Bengal