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West Bengal Minor Minerals (Auction) Rules, 2016

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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 & INDUSTRIES DEPARTMENT

Mines Branch

NOTIFICATION

No. 430-CI/O/MM/11 (Part-II). – 29th July, 2016. – Whereas, the draft notification to frame the West Bengal Minor Mineral (Auction) Rules, 2016, was published *vide* Notification No. 141-CI/O/MM/84/11 (PART II), dated the 3rd March, 2016, in the *Kolkata Gazette, Extraordinary*, PART I, dated the 3rd March, 2016, inviting objections and suggestions from all persons likely to be affected thereby, within 21 days from the date of its publication;

And, whereas, no objection and suggestion has been received by the State Government from the persons likely to be affected thereby within the given period;

Now, therefore, in exercise of the power conferred by sub-section (1) of section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), as subsequently amended (hereinafter referred to as the said Act), the Governor is pleased hereby to make the following rules, namely:—

Rules

CHAPTER I

PRELIMINARY

1. **Short title and commencement.**—(1) These rules may be called the West Bengal Minor Minerals (Auction) Rules, 2016.
(2) They shall come into force on the date of their publication in the *Official Gazette*.
2. **Definitions.**—(1) In these rules, unless the context otherwise requires, —
 - (a) “Act” means the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957);
 - (b) “bid amount” means the amount quoted on and above the reserve price by the successful bidder;
 - (c) “Composite Licence” means prospecting licence-cum-mining lease granted under rule 15;
 - (d) “District Committee” means the District Committee for competitive bidding of minor minerals to be constituted by the State Government, by a notification, for the purpose of rule 6, rule 8 and rule 9;
 - (e) “performance security” means the payment as referred to in rule 11;
 - (f) “reserve price” means the minimum percentage of value of mineral despatched as referred to in sub-rule (1) of rule 8;
 - (g) “section” means section of the Act;

- (h) "successful bidder" means the bidder as referred to in sub-rule (1) of rule 10 or sub-rule (1) of rule 15;
 - (i) "tender document" means the tender document issued by the State Government for conduct of an auction referred to in sub-rule (3) of rule 9;
 - (j) "value of mineral despatched" means value as determined in the manner laid down in sub-rule (3) of rule 8.
 - (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 or rules made thereunder.
3. **Application.**—These rules shall apply to all minor minerals as specified in clause (e) of section 3.
4. **Grant of concession.**—(1) Where mineral content of an area has been established in due course, mining lease shall be granted in the manner specified under Chapter II with respect to any minor minerals referred to in clause (e) of section 3.
- (2) A Composite Licence with respect to an area where the mineralisation has not been established in due manner, shall be granted through auction in the manner specified in Chapter III with respect to any minor mineral referred to in clause (e) of section 3.

CHAPTER II

AUCTION FOR GRANT OF MINING LEASE

5. **Prerequisites for auction of Mining Lease.**—(1) The District Magistrate of a District may initiate an auction process on behalf of the State Government, for grant of a mining lease with respect to an area within his jurisdiction if the mineral contents in such area have been established and notified.
- (2) The District Magistrate shall, prior to issuance of the notice inviting tender with respect to mineral auction, identify and demarcate the area where a mining lease is proposed to be granted through auction by using total station and differential global positioning system and the area so demarcated shall be classified into forests land, land owned by the State Government and land not owned by the State Government.
6. **Eligibility for Mining Lease.**—(1) For the purpose of participating in the auction of mining lease, an applicant shall meet the requirements as specified in rule 4(1) of the West Bengal Minor Minerals Concession Rules, 2016 and the terms and conditions as prescribed in the Mining Lease Deed as per format as provided in that rules.
- (2) The District Committee shall ensure that the participating bidders are technically and financially qualified to participate in the competitive bidding.
7. **Electronic auction.**—An auction shall be conducted only through an online electronic auction platform by a selected entity to be notified by the State Government for this purpose.
8. **Bidding parameters.**—(1) The District Committee shall fix the reserve price of each minor mineral to be auctioned.
- (2) The reserve price shall be such percentage not below seventy-five *percentum* (75%) of the value of mineral despatched in rupee term.
- (3) The value of mineral despatched shall be an amount equal to the product of—
- (a) mineral despatched in a month; and
 - (b) sale price of the minor mineral as determined and published by the Committee for Competitive Bidding of Minor Minerals from time to time.
- Explanation.*—For the newly reclassified 'minor minerals' (*vide* SO No-423(E), dated 02.02.2015), the last sale price of these minerals as notified by the Indian Bureau of Mines shall be taken into account.
- (4) The eligible bidder shall quote the price higher above the reserve price in multiple of rupees one thousand.
9. **Bidding process.**—(1) Subject to the provisions of rule 5, the District Magistrate shall issue a notice inviting tender, including on their website, to commence the auction process and such notice shall contain brief particulars regarding the area under auction, including,—
- (a) particulars of the area identified and demarcated using total station and differential global positioning system divided into forest land, land owned by the State Government, and land not owned by the State Government; and
 - (b) estimated mineral resources giving brief particulars in the format as provided in Form A.
- (2) The tender document issued by the District Magistrate shall contain the revenue survey details of the area identified and demarcated using total station and differential global positioning system divided into forest land, land owned by the State Government, and land not owned by the State Government.
- (3) The bidders shall be provided a fixed period, as notified in the tender document, to study the tender document and such reports and the bidding process shall commence only on expiry of such period.
- (4) The bidders shall submit ten *percentum* (10%) of the reserve price as earnest money for participating in the competitive bidding in the manner as to be provided in the Bid Document.

- (5) The earnest money shall be refundable to the participating bidders except the successful bidder in the manner as to be provided in the Bid Document.
- (6) The earnest money as submitted by the successful bidder shall be adjusted with the bid amount to be deposited by him.
- (7) The auction shall be an ascending forward online electronic auction under the supervision of the concerned District Committee.
- (8) The successful bidder shall be declared by the District Committee.
10. **Grant of Mining Lease.**—(1) The successful bidder shall pay 1/3 of the bid amount after being so declared and the payment shall be made within 15 days of declaration of the successful bidder.
 - (2) The rest of the bid amount shall be payable in two equal instalments before the execution of the deed of lease.
 - (3) The District Magistrate shall issue a Letter of Intent (LoI) directing the compliance of all the conditions as laid down in the Act and rules made thereunder and the LoI shall specify the time within which the conditions shall be fulfilled by the successful bidder.
 - (4) The Mining Lease Deed shall be executed by the District Magistrate within thirty days of the date of completion of the conditions specified in Chapter III and Chapter V of the West Bengal Minor Minerals Concession Rules, 2016 and shall be subject to the provisions of the Act and rules made thereunder.
 - (5) Where presence of any other minor mineral is established or discovered prior to the auction or subsequent to the auction, such minor minerals shall be dealt separately in accordance with the West Bengal Minor Minerals Concession Rules, 2016.
 - (6) The date on which a duly executed Mining Lease Deed is registered, shall be the date of commencement of the mining lease.
11. **Performance security for mining lease.**—The successful bidder shall provide a performance security in the form of bank guarantee for an amount of ten *percentum* (10%) of the bid amount.
12. **Payment to interest.**—The State Government shall charge simple interest at the rate of 6.25% *per annum* on any payment due to the State Government under these rules, for the period of delay to be calculated on expiry of sixty days from the date due for such payment.

CHAPTER III

AUCTION FOR GRANT OF COMPOSITE LICENCE

13. **Prerequisites for auction of Composite Licence.**—(1) The District Magistrate may initiate an auction process for grant of a Composite Licence with respect to an area within the State where the mineral reserve of a particular minor mineral has not already been established.
 - (2) The District Magistrate shall, prior to issuance of the notice inviting tender with respect to auction, identify and demarcate the area where a Composite Licence is proposed to be granted through auction using total station and differential global positioning system and the area so demarcated shall be classified into forests land, land owned by the State Government, and land not owned by the State Government.
14. **Auction for Composite Licence.**—(1) The auction process as specified in rules 6 to 9, shall be applicable for conduct of auction for grant of a Composite Licence subject to the followings:—
 - (a) the District Magistrate shall, subject to compliance of rule 13, issue a notice inviting tender, including on their website, to commence the auction process and such notice shall contain brief particulars regarding the area under auction, including,—
 - (i) particulars of the area identified and demarcated using total station and differential global positioning system divided into forest land, land owned by the State Government, and land not owned by the State Government; and
 - (ii) estimated mineral resources with respect to all minerals discovered in the area.
 - (b) the tender document issued by the District Magistrate, shall contain—
 - (i) geological report specifying particulars and estimated quantities of all minerals discovered in the area during exploration;
 - (ii) revenue survey details of the area identified, demarcated using total station and differential global positioning system divided into forest land, land owned by the State Government, and land not owned by the State Government;
 - (c) the bidders shall be provided a fixed period, as notified in the tender document, to study the tender document and such reports and the bidding process shall commence only on expiry of such period.

15. **Grant of Composite Licence.**—(1) Upon completion of the auction process, the successful bidder shall submit a performance security in the manner specified in rule 11 and upon receipt of such performance security, the District Magistrate shall issue a letter of intent to the successful bidder.
- (2) On receipt of the letter of intent, the bidder shall be considered to be the successful bidder upon fulfilment of the following conditions, namely:—
- (a) compliance with all the terms and conditions of eligibility;
 - (b) obtaining all consents, approvals, permits, no-objections and the like as may be required under applicable laws for commencement of prospecting operations; and
 - (c) submitting the Scheme of prospecting.
- (3) Upon fulfilment of the conditions specified in sub-rule (2), the State Government shall grant a Composite Licence to the successful bidder and such Composite Licence shall be subject to the provisions of the West Bengal Minor Minerals Concession Rules, 2016 as applicable to a prospecting licence and mining lease.
- (4) The minimum area for grant of a Composite Licence shall not be less than the minimum area for which a mining lease may be granted in accordance with the provisions of the West Bengal Minor Minerals Concession Rules, 2016.
- (5) The holder of a Composite Licence shall conduct geological exploration of the area under the Composite Licence so as to ascertain evidence of mineral contents and shall submit periodic reports in accordance with the Act and rules made thereunder, as applicable to a prospecting licence and all reports, studies and other documentation related to the geological exploration of the area under the Composite Licence shall be submitted to the District Magistrate, State Government and Indian Bureau of Mines.
- (6) If a holder of a Composite Licence—
- (a) fails to complete prospecting operations in the prescribed manner, such holder shall not be eligible to receive a mining lease and the Composite Licence shall be terminated in accordance with the provisions of the West Bengal Minor Minerals Concession Rules, 2016;
 - (b) completes prospecting operations in the prescribed manner, such holder shall make an application to the District Magistrate for grant of a mining lease:

Provided that the mining lease shall be granted only with respect to the area for which evidence of mineral contents has been found and shall not be for an area larger than the maximum area for which a mining lease may be granted under the West Bengal Minor Minerals Concession Rules, 2016:

Provided further that any excess area shall be deemed to be surrendered by the holder of Composite Licence after completing its reclamation.

- (7) Upon receipt of the duly completed mining lease application and the 1/3 of the bid amount as specified in rule (8), the District Magistrate shall issue a letter of intent (LoI) for mining lease.
- (8) The applicant shall pay the rest of the bid amount in equal five instalments in successive five financial years.
- (9) The mining lease shall be for minerals found in the area pursuant to exploration prior to the auction:
Provided that where subsequent to the auction, any new minor mineral is discovered, the holder of the mining lease shall follow the provisions of the West Bengal Minor Minerals Concession Rules, 2016, for inclusion of such new mineral in the Mining Lease Deed.
- (10) Where presence of any other minor mineral is established or discovered prior to the auction or subsequent to the auction, such minor minerals shall be dealt in accordance with the West Bengal Minor Minerals Concession Rules, 2016.
- (11) The date on which a duly executed Mining Lease Deed is registered shall be the date of commencement of the mining lease.

CHAPTER IV MISCELLANEOUS

16. **Power to rectify apparent mistakes.**—Any clerical or arithmetical mistake in any order passed by the District Magistrate or any authority or officer under these rules and any error arising therein due to accidental slip or omission, may be corrected by the District Magistrate or the concerned authority or officer, as the case may be:
Provided that no rectification order prejudicial to any person shall be passed unless such person has been given a reasonable opportunity of being heard.

FORM-A

[See sub-rule (1) of rule 9 of West Bengal Minor Minerals (Auction) Rules, 2016]

Mining Lease Area (in Ha)	
Location of mine (Centre) with co-ordinate: Location Mouza, Block, P.S. and GIS coordinates (Latitude & Longitude) of the central axis of the mining area.	
River /Canal/ Khal	
Topography	
Minerals of mine	
Total mineable reserves	
Life of mine	
Proposed production of mine	
Method of mining	
Drilling/Blasting	
Water demand	
Sources of water	
Ultimate depth of Mining	
Average Man power per day	
Solid Waste including residual riverbed materials	
Nearest Railway Station	
Nearest State Highway/National Highway	
Nearest Airport	
Protected/Reserved forest	

By order of the Governor,
DR. KRISHNA GUPTA,
Principal Secy. to the Govt. of West Bengal.