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West Bengal District Mineral Foundation 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. 142-CI/O/MM/84/11(Pt-II).—3rd March, 2016.—Whereas, the Central Legislature has amended the Mines and Minerals (Development and Regulation) Act, 1957 (Act No. 67 of 1957) by enacting the Mines and Minerals (Development and Regulation) (Amendment) Act, 2015 (Act No. 10 of 2015) [hereinafter the said Act];

And whereas, as per Sections 9B(I), 9B(3) and 15 of the MMDR Act, 1957 (as amended) District Mineral Foundation has to be founded in mineral bearing districts of the State of West Bengal.

And whereas, the State of West Bengal has framed the draft West Bengal District Mineral Foundation Rules, 2016 for carrying out the provisions of the said Act of 1957 (As amended);

And whereas, the State of West Bengal is going to notify the constitution of the District Mineral Foundation in each district of this State;

And whereas, the State of West Bengal has been contemplating on introducing the District Mineral Foundation Rules, 2016 to bring in the change in the regime of mining lease/licence of minor minerals;

Now, therefore the Governor has been pleased hereby to publish the Draft West Bengal Mineral Foundation Rules, 2016 for inviting suggestions and comments from the stakeholders, experts of the field and the general public at large for due consideration.

Suggestions and comments may be sent to this Department directly on the above addresss or via email id utpal.bhadra@gov.in and/or bikram.nayek@gov.in within 21 days of publication of this Notification.

The Draft West Bengal Mineral Foundation Rules, 2016 is annexed herewith.

By order of the Governor,
U. BHADRA,

Jt. Secy. to the Govt. of West Bengal.

WEST BENGAL DISTRICT MINERAL FOUNDATION RULES, 2016

NOTIFICATION

1. Short title, extent and commencement :

- (i) These rules may be called the "West Bengal District Mineral Foundation Rules, 2016".
- (ii) They shall extend to the whole of West Bengal apart from the Gorkha Territorial Administration (GTA) areas.
- (iii) These rules shall come into force with effect from the date of its publication in the *Official Gazette*.

2. Application :

These rules shall apply to all minerals except —

- (i) Petroleum and Natural Gas
- (ii) Minerals listed in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957 (as amended).

3. Definitions :

- (i) 'Act' means the Mines and Minerals (Development and Regulation) Act, 1957 (as amended).
- (ii) "Auditors" means the Auditor/ Chartered Accountant appointed by the Foundation, and include the Accountant General of the State or other Auditors nominated by the SETTLOR.
- (iii) "Beneficiaries" means the persons and areas affected by mining related operations undertaken in the area.
- (iv) "Contribution" means the contribution to be collected from the holders of :
 - (a) Mining lease or a prospecting licence-cum-mining lease under the provisions of Section (5) of Section 9B of the Act;
 - (b) Mining lease under the provisions of sub-section (6) of Section 9B of the Act; and
 - (c) Minor mineral concession under the provisions of Section 15A of the Act in the concerned district as may be prescribed by the Central Government or State Government, as the case may be ;
- (v) "Governing Council" means all the trustees of the District Mineral Foundation.
- (vi) "The Foundation" means the (name of the District) District Mineral Foundation created by the SETTLOR.
- (vii) "Year" means a financial year beginning April 1 and ending March 31 of the following year or part period thereof ending on March 31.

4. Constitution of Foundation :

A Foundation to be known as (Name of the District) District Mineral Foundation shall be set up by the State Government by Notification in terms of sub-section (1) of Section 9B and sub-section (4) of Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957, as a non-profit body in each District in the State where a mining lease has been granted or is in operation and its office would be located in the office of the District Magistrate of the concerned District.

5. Objects and Function of the Foundation :

- (a) To work for the interest and benefit of persons affected by mining related operations.
- (b) To work for the areas affected by mining related operations.
- (c) The amount standing to the credit of the District Mineral Foundation shall be utilized :—
 - (i) For payment of monetary benefits payable monthly or quarterly to members of the family of the person holding occupation or traditional rights in areas affected by mining related operations.
Provided that the State Government may make a scheme systematically to regulate the amount of payment of monetary benefits to different categories based on the nature and extent to which they are affected by mining related operation.
 - (ii) Such other expenditure as may be prescribed in the District Mineral Foundation for the benefit of the areas affected by mining.
 - (iii) Payment of administrative expenses necessary for working of the DMF not exceeding 6% of the total annual payment received by it in a Financial Year.
- (d) To maintain a register which shall be open to the public for inspection at any reasonable time, containing—(a) copy of the Current Constitution (b) a copy of the latest annual accounts and of any report of auditor of the accounts of DMF and (c) a copy of the latest annual report.
- (e) To undertake such other activities including creation, management and maintenance of such local infrastructure for socio-economic purposes in areas affected by mining related operations and facilitating the implementation of the sustainable Development Framework.

6. Composition of the District Mineral Foundation :

- (i) The District Mineral Foundation shall be managed by a Governing Council which shall consist of all the Members of the Foundation.
- (ii) Day-to-day management of the Foundation shall be managed by a Managing Committee to be decided by the State Government.

- (iii) The State Government / SETTLOR shall by Notification published in the *Official Gazette* fix the composition of District Mineral Foundation and Managing Committee thereof.

7. Appointment of TRUSTEES :

- (i) The State Government / SETTLOR shall appoint the TRUSTEES as the trustees of the Foundation. The term of appointment for the nominated trustees shall be for 3 years with effect from the date of their appointment as TRUSTEES and the nominating authority may thereafter renew their appointment for another term or may nominate other persons in their place.

Provided that the term of such nominated trustees shall in no case exceed three terms of three years each.

- (ii) The State Government / SETTLOR may at any time increase the number of trustees in any of the categories and also may at any time remove any of the trustees and may appoint any other person as the TRUSTEE at its sole discretion. The trustees so removed by the State Government/SETTLOR shall cease to be TRUSTEE with effect from the date of such removal.

8. Powers and Functions of Governing Council :

- (i) The Governing Council consisting of all the TRUSTEES shall be responsible for :
- (a) Drawing up and approving of Annual Action Plan and the Annual Budget for functioning of the Foundation. The Annual Action Plan must be prepared and approved by the Governing Council atleast one month before the commencement of the year. Annual Budget shall be prepared and approved by the Governing Council as per Annual Action Plan.
 - (b) While preparing the Annual Plan for the next financial year, the sum total of the Past Commitment and Liabilities spilling over shall be assessed and to maintain financial discipline and timely completion of the Project, the sum total of the past liabilities and commitments and new scheme being proposed should not in any case exceed three times the expected in-flows for the next financial year.
 - (c) Approving such other expenditure as may be prescribed by the State Government/SETTLOR.
 - (d) Approving the recommendations of the Managing Committee.
 - (e) Approving the annual reports and Audited accounts of the Foundation within 60 days of the close of the previous years.
- (ii) TRUSTEES, Governing Council and the Managing Committee shall act in accordance with the directions, guidelines etc. issued by the State Government/ SETTLOR from time to time.

9. Powers and Functions of the MANAGING COMMITTEE :

- (i) The Managing Committee shall manage, administer and supervise the day to day activities of the Foundation.
- (ii) The Managing Committee shall :
- (a) Ensure timely collection of contribution Fund from the concerned Mining lease holders in accordance with the provisions of the Act.
 - (b) Assist in the preparation of the Annual Plan and the Annual Budget of the Foundation.
 - (c) Supervise and ensure the execution of Annual Plan and the approved schemes and projects.
 - (d) Accord sanction to the projects, release and disburse the Foundation Fund for the purpose.
 - (e) Operate Foundation Fund and to invest the same in a diligent manner and to open Bank Accounts in the Name of the Foundation and operate such accounts and investments.
 - (f) Monitor and Progress of the Utilization of Foundation Fund.
 - (g) Place the audited accounts alongwith an Annual Report before the Governing Council for its approval within 60 days of close of the financial year.
 - (h) Lay down and/or approve rules and procedures for the functioning of the Foundation.

10. Meeting of the Governing Council and the Managing Committee :

- (a) The Governing Council shall meet at least once in every quarter. Every meeting of the Governing Council shall be deemed to be a meeting of the Foundation.
- (b) The Meeting of Governing Council shall be convened as desired by the Chairman. The Quorum for such meeting shall be one third of the total membership.
- (c) All decisions of the Governing Council shall be taken by the majority of the Members present and voting. In case of tie, the Chairman of the Meeting shall have a casting vote.
- (d) The meeting of the Managing Committee shall be held at least six times in a financial year and it shall be convened as decided by the Chairman of the Managing Committee.

11. Operation of FOUNDATION FUND :

- (i) The Foundation shall have the power to open and operate bank accounts in its own name at any scheduled commercial Nationalized Bank. The Foundation Fund shall be kept in one or more accounts and all the accounts shall be operated under the joint signatures of the Member Secretary and another member of the Managing Committee.
- (ii) The Foundation Fund would include :
 - (a) The initial settlement made by the State Government/SETTLOR.

- (b) Any grant, contribution or other monies received from the State Government/ SETTLOR or from any other Agency, Institution or Person.
- (c) The contributions collected from the holders of :
 - (i) Mining lease or a prospecting licence-cum-mining lease under the provisions of sub-section (5) of Section 9B of the Act.
 - (ii) Mining lease under the provisions of sub-section (6) of Section 9B of the Act and
 - (iii) Minor mineral concession under the provision of Section 15A of the Act in the concerned district as may be prescribed by the SETTLOR.
- (d) Investments and other deposits and the interest accrued thereon and any other income desired therefrom.
- (e) All other properties of the Foundation and the income derived therefrom or appreciation thereof.

12. Contribution :

- (i) The holder of a mining lease or a Prospecting Licence-cum-mining lease granted on or after the date of commencement of the Mines & Minerals (Development & Regulation) Amendment Act, 2015 shall pay the amount under the provisions of sub-section (5) of Section 9B of the Act.
- (ii) The holder of a mining lease or a Prospecting Licence-cum-Mining Lease granted on or before the date of commencement of the Mines & Minerals (Development & Regulation) Amendment Act, 2015 shall pay the amount under the provisions of sub-section (6) of Section 9B of the Act.
- (iii) The holder of a mining lease or a prospecting-cum-mining lease or a permit holder in respect of minor minerals shall in addition to the royalty pay to the District Mineral Foundation of the District in which mining operation are carried on an amount as may be prescribed.
- (iv) Lessee shall submit return in respect of contribution to DMF, in every quarter to (i) The Chairman of District Mineral Foundation, (ii) the D.L. & L.R.O, (iii) The Mining Officer of the concerned zone within 15th day of end of every quarter, failing which penalty @ Rs.1 00/- per day shall have to be paid by the Lessee for each day of delay.
- (v) If contribution to the District Mineral Foundation not paid by the Lessee within the time prescribed, interest @ 6.25% of the total outstanding with regard to the contribution shall be payable in the next quarter.

13. Annual Report :

- (i) The Member Secretary of the Managing Committee shall within 60 days of close of the financial year place an Annual Report in respect of activities undertaken under the fund available with DMF, before the Governing Council of the Foundation.
- (ii) A copy of Annual Report shall be sent to the concerned D.M. and to the Commerce and Industries Department, Government of West Bengal within 30 days from the date of its approval.
- (iii) The Governing Council of the Foundation shall approve the annual reports within 60 days of the close of the previous year.

14. The District Mineral Foundation shall maintain a register giving details of :

- (a) The list of lease holders in the District and the annual payments made by them to the DMF.
- (b) The Disbursal of benefits to the affected person.
- (c) Annual Report including Annual audited accounts of the District Mineral Foundation and the same shall be available on the website of the District Mineral Foundation.

15. Accounts and Audit :

- (i) The Managing Committee shall maintain and/or cause to be maintained proper accounts documents and other related records with respect to the Foundation Fund.
- (ii) The Accounts of the Foundation shall be audited in every year by the Comptroller and Auditor General of India.
- (iii) The Foundation shall forward the approved Budget and Annual Plan alongwith Schemes/Projects for the next Financial Year to the concerned District Magistrate, AEO to Zilla Parishad, and C & I Department for publication on their websites.
- (iv) The Foundation shall forward the Approved Annual Report and Approved Audit Report within 60 days of close of Financial Year to the Zilla Parishad, D.M. and C & I Department.
- (v) The accounts of Foundation as certified by the District Magistrate together with Audited report shall be forwarded annually to the State Government in Finance Department for laying before State Assembly.

By order of the Governor,
[ILLEGIBLE],
Principal Secy. to the Govt. of West Bengal.