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STEEL & MINES DEPARTMENT

NOTIFICATION

The 15th January, 2016

No.437– IV(A)SM-44/2015 (Pt.IV)/SM.—In exercise of the powers conferred by sub-section (4) of Section 15 and Section 15 A of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), and in pursuance of Order No.16 M.VI (Part) 7/2015, dated the 16th September, 2015 of the Ministry of Mines, Government of India, the State Government do hereby make the following Rules to amend the Odisha District Mineral Foundations Rules, 2015, namely:—

1. (1) These Rules may be called the Odisha District Mineral Foundations (Amendment) Rules, 2015.

(2) These Rules shall be deemed to have come into force on the 12th January, 2015.

2. In the Odisha District Mineral Foundations Rules, 2015, (hereinafter referred to as the said Rules), in rule 1, for sub-rule(2) the following sub-rule shall be substituted, namely:—

“(2) These rules shall be deemed to have come into force on the 12th January, 2015”.

3. In the said Rules, in rule 9, sub-rule(2),—

(i) in clause (a), for the words ‘the amount of royalty’ the words ‘an amount equal to thirty percentum of the royalty’ shall be substituted;

(ii) in clause (b), for the words ‘ twenty five percentum’ the words “ten percentum” shall be substituted.

4. In the said Rules, for rule 10, the following rule, shall be substituted, namely:—

“10. Permissible activities;—

(1) The funds of the Trust may be utilised for the following activities, namely:—

(A) High priority activities:—

(i) Drinking water supply:— Centralized purification systems, water treatment plants, permanent or temporary water distribution networks including stand-alone facilities for drinking water, laying

of piped water supply system;

- (ii) Environment preservation and pollution control measures:— Effluent treatment plants, prevention of pollution of streams, lakes, ponds, ground water, other water sources in the region, measure for controlling air and dust pollution caused by mining operations and dumps, mine drainage system, mine pollution prevention technologies, and measures for working or abandoned mines and other air, water and surface pollution control mechanisms required for environment-friendly and sustainable mine development, except in so far as these responsibilities of the lessee in terms of relevant laws or conditions of clearances granted to the lessee;
- (iii) Health care:—
- (a) The focus must be on creation of primary or secondary health care facilities in the affected areas and the emphasis should not be only on the creation of the health care infrastructure, but also on provision of necessary staffing, equipment and supplies required for making such facilities effective.
- (b) To that extent, the effort should be to supplement and work in convergence with the existing health care infrastructure of the local bodies, State and Central Government.
- (c) The expertise available with the National Institute of Miners' Health may also be drawn upon to design special infrastructure needed to take care of mining related illnesses and diseases.
- (d) Group Insurance Scheme for health care may be implemented for mining affected persons not covered under other schemes;
- (iv) Education:— Construction of school buildings, Additional class rooms, Laboratories, Libraries, Art and crafts room, toilet blocks, drinking water provisions, residential Hostels for students or teachers in remote areas, sports infrastructure, engagement of teachers or other supporting staff, e-learning setup, other arrangement of transport facilities (bus or van or cycles or

- rickshaws etc.) and nutrition related programs;
- (v) Welfare of Women and Children:— Special programmes for addressing problems of maternal and child health, malnutrition, infectious diseases etc;
 - (vi) Welfare of aged and disabled people:— Special programme for welfare of aged and disabled people. Provision of aids and appliances to disabled persons etc.
 - (vii) Skill development:—
 - (a) Skill development for livelihood support, income generation and economic activities for local eligible persons;
 - (b) The projects or schemes may include training, skill development centre, self-employment, support to Self Help Groups and provision of forward and backward linkages for such self-employment economic activities;
 - (viii) Sanitation:— Collection, transportation and disposal of waste, cleaning of public places, provision of proper drainage and Sewage Treatment Plant, provision for disposal of fecal sludge, provision of toilets and such other related activities;
 - (ix) Housing:—Schemes for providing shelter to the persons not having pucca houses including group housing schemes, individual houses, old age homes etc.
- (B) Other priority activities:—
- (i) Physical infrastructure:—Providing required physical infrastructure such as road, bridges, railways and waterways projects;
 - (ii) Irrigation:—Developing alternate sources of irrigation, check-dams, diversion weirs, adoption of suitable and advanced irrigation techniques;
 - (iii) Energy and Watershed Development:—
 - (a) Development of alternate source of energy (including micro-hydel) and rainwater harvesting system;
 - (b) Development of orchards, integrated farming and economic forestry and restoration of catchments.
 - (iv) Afforestation:—Plantation of trees and regeneration of degraded forests, soil conservation measures etc;
 - (v) Any other measures for enhancing environmental quality in the

districts where mining operations are carried on.

(C) As far as possible, not less than 60 percentum of the funds may be utilised for high priority activities and upto 40% of the funds may be utilised for other priority activities:

Provided that if the Board is of view that it is necessary in the interest of welfare of the affected people and of the development of the affected areas so to do, it may take up projects for other priority areas in excess of the limits specified in this sub-rule.”

5. In the said Rules, for rule 11, the following rule shall be substituted, namely:—

“ 11. Identification of affected areas and affected people:—

(1) The Board shall identify, prepare and maintain a list of affected areas and affected people in accordance with the provisions of sub- rules (2) and (3) respectively.

(2) Affected areas shall be of two types, namely:— (i) directly affected areas, (ii) indirectly affected areas.

(a) Directly affected areas are areas where direct mining related operations such as excavation, mining, blasting, beneficiation and waste disposal (overburdened dumps, tailing ponds, transport corridors etc.) etc. are located, which may also include—

(i) Villages and Gram Panchayats within which the mines are situated and are operational, which may extend to neighbouring village, block or district or even the State;

(ii) an area within a radius of ten Kilometres from a mine or cluster of mines, irrespective of the fact whether this falls within the district concerned or adjacent district;

(iii) villages in which families displaced by mines have been resettled or rehabilitated by the project authorities; and

(iv) villages that significantly depend on the mining areas for meeting their economic needs and have usufruct and traditional rights over the project areas i.e. for grazing, collection of minor forest produce etc.

(b) Indirectly affected areas are areas where local population is adversely affected on account of economic, social and environmental consequences due to mining related operations and such operation may have the major negative impacts of mining by way of deterioration of water, soil and air quality, reduction in stream flows and depletion of ground water,

congestion and pollution due to mining operations, transportation of minerals, increased burden on existing infrastructure and resources.

- (3) (a) Affected people may be of directly affected persons like:—
- (i) 'affected family' as defined under section 3 (c) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (30 of 2013); and
 - (ii) 'displaced family' as defined under section 3 (k) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or
 - (iii) any other family or persons as appropriately identified by the concerned Gram Sabha.
- (b) Persons affected by mining related operation may also include people who have legal and occupational rights over the land being mined and also those with usufruct and traditional rights.
- (c) Affected families may also be identified, as far as possible, in consultation with the local or elected representatives of Gram Sabha.

6. In the said Rules, after rule 11, the following rule shall be inserted, namely:—

“ 11A. General guidelines:—

- (1) The developmental and welfare activities to be taken up by the Trust shall, as far as possible, be in the nature of complementing the ongoing schemes or projects being funded by the State as well the Central Government.
- (2) Activities meant to be taken up under the 'polluter pays principle' should not be taken up under the Trust.
- (3) Without prejudice to the powers of the Trust, efforts shall be made to achieve convergence with the State and the District Plans so that the activities taken up by the Trust supplement the development and welfare activities and are treated as extra-budgetary resources for the State Plan.
- (4) An amount not exceeding five percentum of the annual receipts of the Trust or such other limit not exceeding five percentum, as may be fixed by the Government, may be utilised for administrative, supervisory and overhead costs of the Trust.
- (5) As far as possible, no temporary or permanent posts should be created by the Trust and for any creation of temporary or permanent posts and purchase of vehicle the Trust shall require prior approval of the Government:

Provided that minimum required staff can be engaged on contractual basis, with the approval of the Government.

- (6) If the affected area of a mine in one district also falls in the jurisdiction of another district, such percentage of amount collected from the mine by the Trust, as may be decided by the Government, shall be transferred to the Trust of the other district concerned for taking up the activities in such areas.
- (7) A project that is for benefit of the affected area or people, but stretches beyond the geographical boundary of the district should be taken up by the Trust of the respective district.
- (8) Projects for development of common infrastructure like construction of roads, bridges etc. in excess of the limits specified in regard to the priority for fund utilization, on a case to case basis, may also be taken up for projects of importance to the district.
- (9) Prior approval of the Government need to be taken, before taking up such works in excess of the limits of fund utilization.
- (10) A reasonable sum of the annual receipts as decided by the Board, may be kept as endowment fund for providing sustainable livelihood.”

7. In the said Rules, for rule 12, the following rule shall be substituted, namely:—

“12. Special provisions for Scheduled Areas:—

- (1) The process to be adopted for utilization of funds in the scheduled areas shall be guided by the provisions contained in Article 244 read with Schedule V to the Constitution of India relating to administration of the Scheduled Areas and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007).
- (2) In respect of villages affected by mining related operation situated within the Scheduled Areas –
 - (i) Approval of the Gram Sabha shall be required:—
 - (a) for all plans, programs and projects to be taken up in the Gram Sabha area,
 - (b) for identification of beneficiaries under the existing guidelines of the Government.
 - (ii) Report on the works undertaken by the Trust in the respective village

shall be furnished to the Gram Sabha after completion of every financial year.

Explanation:—

Gram Sabha shall have the same meaning as assigned to it for the purpose of implementation of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (Act, 40 of 1996).”

8. In the said Rules, in rule 15, after the words “Annual Report” the words “and shall also be placed in the public domain” shall be inserted.

9. In the said Rules, in rule 17,—

(a) in sub-rule (2), in clause (iii), after the word “areas”, the words “and people” shall be inserted; and

(b) after sub-rule (2), the following sub-rule shall be inserted, namely:—

“(3) Each Trust shall make voluntary disclosure of the informations under the Right to Informations Act, 2005 (22 of 2005).”

By Order of the Governor

R.K. SHARMA

Principal Secretary to Government