

**NOTICE**

The Department of Industries, Commerce and Enterprises, Government of West Bengal, has prepared the draft rules named “The West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021” for the provisions relating to sand mining; transportation, storage and sale of sand; regulation and monitoring of sand mining, transportation, storage and sale of sand; prevention of illegal sand mining, transportation, storage and sale of sand; and for purposes connected therewith, under Sections 15 and 23C of the Mines and Minerals (Development and Regulation) Act, 1957.

The draft rules are placed on the website of the Department of Industries, Commerce and Enterprises for inviting comments/suggestions from the general public, mining industry, stake holders, industry associations, and other persons and entities concerned. The last date for receipt of the comments/suggestions is [●] 2021.

The comments/suggestions may be sent by e-mail to [●]. It may be kindly ensured that the comments are sent as Microsoft – Office Word files only. Alternatively, comments/suggestions may also be sent by post to the following address:

[●]

The envelope may kindly be super scribed on the top with, “Comments/Suggestions on “The West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021”.

**GOVERNMENT OF WEST BENGAL****DEPARTMENT OF INDUSTRY, COMMERCE & ENTERPRISES  
(Mines Branch)**

Draft West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021  
Draft for Consultation Purposes Only

**GOVERNMENT OF WEST BENGAL****DEPARTMENT OF INDUSTRY, COMMERCE & ENTERPRISES  
(Mines Branch)**

## NOTIFICATION

[Notification No]

[Date]

In exercise of the powers conferred by Section 15 and Section 23C of Mines and Minerals (Development & Regulation) Act, 1957 (Central Act 67 of 1957), the Government of West Bengal, in accordance with the West Bengal Sand Mining Policy 2021 as approved by the Cabinet on [Insert Date], hereby makes the following rules to grant sand mining leases, to regulate and monitor sand mining operations, to prevent illegal sand mining, transportation, storage and sale of sand, and for purposes connected therewith.

**CHAPTER I  
PRELIMINARY**

1. **Short Title and Commencement:**
2. These Rules may be called the West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021.
3. They shall extend to the entire State of West Bengal.
4. They shall come into force from the date of their publication in the *Official Gazette*.
5. **Definitions:**
6. In these Rules, unless the context otherwise requires:
  - i. "Act" means the Mines and Minerals (Development and Regulation) Act,

- 1957 (Central Act 67 of 1957), as subsequently amended from time to time.
- ii. "Authorised Officer" means such officers as prescribed under Rule 21.
  - 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. "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.
  - iv. "Centralized Portal" means a common web-based platform for uploading details and obtaining authorisations and registrations in connection with sand mining.
  - 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 prescribed under the Rules.
  - vi. "District Level Sand Committee" means a committee as per Rule 18.
  - vii. "E-challan" means a document generated on the centralized portal under these Rules evidencing under these Rules.
  - viii. "Environmental Clearances" means the clearances as provided under Rule 9 of these Rules.
  - ix. "Government Company" means a company as defined in the Companies Act, 2013.
  - x. "Internal Permit" means a document generated on the centralized portal under these Rules authorising transportation of sand from sand mine to stockyard/depot.
  - xi. "Operator" means any person authorized for carrying out 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.
  - xii. "Property" means property as per Rule 27.
  - xiii. "Rules" means the West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021, as subsequently amended from time to time.
  - xiv. "Sale/Sell" means buying for the purposes of selling, selling, supplying, distributing, trading or engaging in any such transaction of sand for commercial purposes.
  - xv. "Sand" for the purposes of these Rules means and includes:
    - a. ordinary sand other than sand used for prescribed purposes; and
    - b. stones, boulders, pebbles and gravels if any, accumulated along with the sand by natural phenomenon.
  - xvi. "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.
  - xvii. "Sand Mining Lease" means a lease granted by the State Government for the purpose of undertaking sand mining, and includes a sub-lease granted for such purpose.
  - xviii. "Sand Mining" means any or all activities undertaken for the purpose of winning sand.
  - xix. "Sand Mining Operations" means 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.

- xx. "Sand Mining Plan" means the mining plan as provided under Rule 8.
  - xxi. "State Government" means the Department of Commerce, Industries and Enterprise of the Government of West Bengal.
  - xxii. "State Level Sand Committee" means a committee as per Rule 19.
  - xxiii. "Stockyard/Depot" means a place where the sand is stored and stocked for commercial purposes. "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.
  - xxiv. "Storage/Store" means storing and stocking of sand for commercial purposes.
  - xxv. "Transport/Transportation" means carrying sand from one place to another by motorized or non-motorised vehicle or by head-load for commercial purposes.
  - xxvi. "WBMDTCL" means the West Bengal Mineral Development and Trading Corporation Limited incorporated under Companies Act, 1956 on 23 February 1973, wholly owned by the State Government, 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:**
4. Notwithstanding anything contained in any other law for the time being in force, 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 including illegal sand mining, transportation, storage and sale of sand; and
  - iv. for purposes connected therewith.
2. Notwithstanding anything contained in any law for the time being in force or terms and conditions of any lease for mining sand, immediately upon the commencement of these Rules, unless otherwise explicitly stated in these Rules, the provisions of these Rules shall also be applicable to:
- i. such persons holding mining leases for 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:**

5. 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.
6. The State Government, upon consultation with the District Level Sand Committee, may grant sand mining lease to WBMDTCL or any other government company or government authority or statutory body, in accordance with the Act and these Rules.
7. The District Level Sand Committee, with the prior approval of State Government, may grant sand mining lease to persons other than those provided under sub-rule (2) for carrying out sand mining, in accordance with the Act and 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.
8. Such person holding sand mining leases under sub-rule (2) or any operator selected and appointed by them in accordance with sub-rule (5) for undertaking any or all sand mining operations shall register itself in such manner as may be prescribed by the State Government in a notification published in the *Official Gazette*.
9. Such person holding sand mining leases under sub-rule (2) may select and appoint such operators who are authorized by the State Government under these Rules, 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.
10. Such persons holding mining leases for sand from before the commencement of these Rules, shall register themselves on the centralized portal within sixty days from the commencement thereof.
11. **Period of Sand Mining Lease:**
12. Sand mining leases may be given under these Rules for a period not less than five years and not exceeding twenty years.
13. The date of commencement of the period of sand mining lease shall be

the date on which the sand mining lease deed is duly executed in accordance with these Rules and duly registered.

**14. Payment of Royalty and Rent and/or other Charges in respect of Sand Mining Lease:**

15. Such person holding sand mining leases under sub-rule (2) of rule 4, shall pay royalty in respect of sand sold by him or by his 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*, from time to time.
16. Such person holding sand mining leases under sub-rule (3) of rule 4, shall pay royalty in respect of sand removed or consumed by him or by his 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*, from time to time.
17. The persons in sub-rule (1) and (2) shall make the requisite payments on the centralised portal and obtain an e-challan against the same, in such manner as prescribed by State Government by notification in the *Official Gazette*.
18. 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-rule (1) and (2) with effect from such date as may be specified in the notification.

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

**7. Lapsing, Transfer and Amalgamation of Sand Mining Leases:**

8. The lapsing of sand mining lease for non-commencement or discontinuance of sand mining within the prescribed 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.
9. An application against lapsing of sand mining lease for non-commencement or discontinuance of sand mining within the prescribed period or transfer of a sand mining lease or amalgamation of sand mining leases pending at the commencement of these Rules, shall be disposed of in accordance with the West Bengal Minor Mineral Concession Rules, 2016.

**CHAPTER III**

**OTHER CONDITIONS FOR SAND MINING**

**8. Sand Mining Plan:**

9. The sand mining shall be in accordance with the sand mining plan as approved under this Rule.
10. The holder of letter of intent or government order by whatever name called for grant of mining lease upon satisfaction of certain conditions as mentioned in therein, within such time as provided therein, shall submit a sand mining plan to the State Government.
11. The sand mining plan shall be prepared by a qualified person recognized by Indian Bureau of Mines.
12. Every sand mining plan duly approved under these Rules shall be valid for the entire duration of the sand mining lease.
13. The sand mining plan as prescribed under sub-rule (1) shall be reviewed from time to time.

**9. 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, shall *mutatis mutandis* apply to sand mining.

**10. Prohibition on Sand Mining under Specified Conditions:**

11. No sand mining shall be carried out within three hundred metres, upstream and downstream, measured from the centre line of any bridge, regulator or similar hydraulic structure and from the end point of bank protection works.
12. No sand mining shall be carried out beneath three metres of the river bed or ground water level, whichever is less.
13. No sand mining shall be carried out within a distance of three km of a barrage axis or dam on a river unless otherwise permitted by the Department of Irrigation and Waterways of the State Government and such distance shall be reckoned across an imaginary line parallel to the barrage, or dam axis, as the case maybe.
14. No sand mining shall be carried out beyond the central one third of the river bed, or keeping a distance of one hundred metre from the existing bank line whichever is less, unless otherwise permitted by the Department of Irrigation and Waterways of the State Government.
15. The State Government may add further conditions and/or modify the aforesaid conditions by notification published in the *Official Gazette*.

#### CHAPTER IV

##### SHORT TERM MINING LICENSE

**11. Grant of Short Term Sand Mining License:**

12. The District Level Sand Committee or WBMDTCL, with the prior approval of the State Government, may grant short term mining license for carrying out sand mining under exceptional circumstances arising due to judicial intervention, non-availability of continuous stretch of the minimum area specified under these Rules due to hydro-geological conditions of the rivers, unsuitability of any stretch for sustaining the period specified in these Rules owing to possible change of river-flow pattern, and any other reason to be stated in writing.

13. The provisions of Rules 4 (*Sand Mining to be under Sand Mining Lease*), 5 (*Period of Sand Mining Lease*), 8 (*Sand Mining Plan*) and 9 (*Environmental Aspects of Sand Mining*) shall not apply to short term mining license granted under this Chapter.

**14. Area of Short Term Sand Mining License:**

A short term sand mining license may be granted for a specified area not above three hectares.

**13. Period of Short Term Sand Mining License:**

A short term sand mining license may be granted for a period not 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:**

16.No person shall transport and/or store and/or sell sand and/or carry out any other allied activities in connection therewith under these Rules without being duly authorized by the State Government.

17.A person engaged in the transportation of sand shall register itself and every carrier used for transporting sand on the centralized portal, in such manner as may be prescribed by the State Government in a notification published in the *Official Gazette*.

18.A person engaged in the storage of sand shall register itself and every such stockyard/depot used for storage sand on the centralized portal, in such manner as may be prescribed by the State Government in a notification published in the *Official Gazette*.

19.A person engaged in sale of sand shall register itself on the centralized portal, in such manner as may be prescribed by the State Government in a notification published in the *Official Gazette*.

20.The persons specified in sub-rule (2), (3) and (4) who are engaged in the respective activities from before the commencement of these Rules, shall register themselves on the centralized portal within sixty days from the

commencement thereof.

21. Within such time as may be prescribed by the State Government in a notification published in the *Official Gazette*, such other persons engaged in any activity in connection with sand mining operations, 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.
22. The time period, terms and conditions of the registration and fees shall be as prescribed by the State Government in a notification published in the *Official Gazette*.
23. **General Obligations:**
24. 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 of amount of sand mined on the centralised portal.
25. Every person in-charge of the carrier carrying sand shall carry a valid internal permit or e-challan generated on the centralized portal.
26. 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.
27. 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 WBMDTCL:**

18. The State Government hereby authorises WBMDTCL as the nodal agency for monitoring sand mining operations including sand mining, transportation, storage and sale of sand.

19. Without prejudice to the generality of sub-rule (1), WBMDTCL 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 prescribe by a notification published in the *Official Gazette*.

#### 18. **Constitution of District Level Sand Committees:**

19. 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*.

20. The constitution and terms of reference of District Level Sand Committee

shall be as prescribed by the State Government by notification published in the Official Gazette.

**21. Constitution of State Level Sand Committee:**

22. The State Government may establish a State Level Sand Committee by notification published in the Official Gazette.

23. The role, constitution and terms of reference of the State Level Sand Committee shall be as prescribed by the State Government by notification published in the Official Gazette.

**24. Powers of District Level Sand Committee:**

25. The District Level Sand Committee may either *suo moto* or upon intimation by State Government and/or WBMDTCL, have the powers 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;
- 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 prescribe 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 prescribed under the Rules, by notification published in the Official Gazette.

**22. Power to Enter and Inspect:**

23. 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 all assistance to the Authorized Officer to perform their duties under sub-rule (1).

**5. Power to Search:**

6. 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.

7. 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.

8. 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).

**9. Recovery of certain Sums as Arrears of Land Revenue:**

Any rent, royalty, tax, fee or other sum due to the State Government 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

### PENALTIES AND COMPOUNDING OF OFFENCES

#### 25. **Penalty for Contravention:**

26. Any person who obtains any right in a sand mining lease or short term sand mining license, or carries out any sand mining operation, or transports, or stores, or sells sand 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 prescribed by the State Government by notification published in the Official Gazette.

27. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under this Rule shall be cognizable in nature.

**28. 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.

**27. Power to Seize:**

28. Whenever any person carries out any sand mining operations including transportation, storage or sale or causes to be carried out any sand mining operations including transportation, storage or sale 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.

29. 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 prescribed, 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.

30. The property may be released upon payment of applicable amount as may be prescribed by the State Government in a notification published in the *Official Gazette*:

31. The applicable amount for release of property shall be paid within one month from the date of knowledge seizure.

32. 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.

33. If the prescribed amount is not duly paid within the prescribed time, the authority prescribed by the State Government by notification published in the *Official Gazette*, may confiscate and auction such property.

**34. Power to Recover:**

Whenever any person carries out any sand mining operations including transportation, storage or sale of sand 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.

**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:**

31. 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 any body 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:**

32. 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 prescribed by the State Government in a notification published in the *Official Gazette*.

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

34. Upon receipt of compounding application within the prescribed time under sub-rule (4), if the prescribed authority is satisfied that the offence committed is compoundable, it may compound the offence on such conditions as it may deem appropriate.

35. 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.

36. 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:**

#### 33. **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 prescribed 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. 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 irrespective of its duration of pendency, become ineligible.

#### **34. 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.

#### **35. Power to Remove Difficulty:**

If any difficulty arises in giving effect to the provisions of these Rules, the State Government may pass such order not inconsistent with the provisions of these Rules for removing such difficulty.

#### **36. Protection of Action taken in Good Faith:**

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under these Rules.