

15 -ാം കേരള നിയമസഭ

12 -ാം സമ്മേളനം

നക്ഷത്ര ചിഹ്നം ഇല്ലാത്ത ചോദ്യം നം. 1470

10-10-2024 - ൽ മറുപടിയ്ക്ക്

റവന്യൂഭൂമിയിലെ ഖനനം

ചോദ്യം		ഉത്തരം	
ശ്രീ. അനൂപ് ജേക്കബ്		ശ്രീ. കെ. രാജൻ (റവന്യൂ-ഭവനനിർമ്മാണ വകുപ്പ് മന്ത്രി)	
(എ)	സംസ്ഥാനത്ത് റവന്യൂഭൂമിയിലെ ഖനനം സംബന്ധിച്ച് വിശദമായ മാർഗനിർദ്ദേശങ്ങൾ പുറപ്പെടുവിച്ചിട്ടുണ്ടോ; ഉണ്ടെങ്കിൽ അതിന്റെ പകർപ്പ് ലഭ്യമാക്കാമോ;	(എ)	സർക്കാർ ഭൂമിയിലെ പാറ ഖനനം ചെയ്യുന്നതിനാണ് റവന്യൂ വകുപ്പ് നിരാക്ഷേപ സാക്ഷ്യപത്രം അനുവദിക്കുന്നത്. സർക്കാർ ഭൂമിയിലെ പാറ ഖനനം ചെയ്യുന്നതിന് നിരാക്ഷേപ സാക്ഷ്യപത്രം നൽകുന്നതിനുള്ള വിശദമായ മാർഗനിർദ്ദേശങ്ങൾ സർക്കാരിന്റെ 28/1/2021 തീയതിയിലെ G.O(Ms) 28/2021/RD നമ്പർ ഉത്തരവ് പ്രകാരം പുറപ്പെടുവിച്ചിട്ടുള്ളതാണ്. ആയതിന്റെ പകർപ്പ് അനുബന്ധമായി ചേർക്കുന്നു.
(ബി)	നിലവിൽ റവന്യൂഭൂമിയിലെ ഖനനവുമായി ബന്ധപ്പെട്ട് ചട്ടങ്ങൾ രൂപീകരിച്ചിട്ടുണ്ടോ; ഉണ്ടെങ്കിൽ പുതിയ ചട്ടങ്ങൾ എന്നുമുതലാണ് പ്രാബല്യത്തിൽ വന്നത്; വിശദമാക്കാമോ;	(ബി)	7 /2/2015 തീയതിയിലെ G.O (P) No.16/2015/ID നമ്പർ ഉത്തരവ് പ്രകാരം മൈനർ മിനറൽ ഖനനം ചെയ്യുന്നതിന് 2015-ലെ കേരള മൈനർ മിനറൽ കൺസെഷൻ ചട്ടങ്ങൾ രൂപീകരിച്ചിട്ടുള്ളതാണ്. ടി ചട്ടങ്ങളിലെ വ്യവസ്ഥകൾക്ക് വിധേയമായാണ് സർക്കാർ ഭൂമിയിൽ പാറ ഖനനം ചെയ്യുന്നതിന് റവന്യൂ വകുപ്പ് നിരാക്ഷേപ സാക്ഷ്യപത്രം അനുവദിക്കുന്നത്. തുടർന്ന് സർക്കാർ ഭൂമിയിൽ പാറ ഖനനം ചെയ്യുന്നതിന് നിരാക്ഷേപ സാക്ഷ്യപത്രം അനുവദിക്കുന്നതുമായി ബന്ധപ്പെട്ട് 28/1/2021 തീയതിയിലെ G.O(Ms) 28/2021/RD നമ്പർ ഉത്തരവ് പ്രകാരം മാർഗ നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിച്ചിട്ടുള്ളതുമാണ്.
(സി)	ചട്ടങ്ങൾ രൂപീകരിച്ചിട്ടില്ലെങ്കിൽ നിലവിൽ റവന്യൂഭൂമിയിലെ ഖനനം എന്ത് അടിസ്ഥാനത്തിലാണ് നടത്തിവരുന്നത്; വിശദമാക്കാമോ?	(സി)	7/2/2015 തീയതിയിലെ G.O (P) No.16/2015/ID നമ്പർ ഉത്തരവ് പ്രകാരം മൈനർ മിനറൽ ഖനനം ചെയ്യുന്നതിന് 2015-ലെ കേരള മൈനർ മിനറൽ കൺസെഷൻ ചട്ടങ്ങൾ രൂപീകരിച്ചിട്ടുള്ളതാണ്. ടി ചട്ടങ്ങളിലെ വ്യവസ്ഥകൾക്ക് വിധേയമായാണ് സർക്കാർ ഭൂമിയിൽ പാറ ഖനനം ചെയ്യുന്നതിന് റവന്യൂ വകുപ്പ് നിരാക്ഷേപ സാക്ഷ്യപത്രം അനുവദിക്കുന്നത്. തുടർന്ന് സർക്കാർ ഭൂമിയിൽ പാറ ഖനനം ചെയ്യുന്നതിന് നിരാക്ഷേപ സാക്ഷ്യപത്രം അനുവദിക്കുന്നതുമായി ബന്ധപ്പെട്ട് 28/1/2021

		തീയതിയിലെ G.O(Ms) 28/2021/RD നമ്പർ ഉത്തരവ് പ്രകാരം മാർഗ നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിച്ചിട്ടുള്ളതുമാണ്.
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സെക്ഷൻ ഓഫീസർ



GOVERNMENT OF KERALA

Abstract

Revenue Department - Grant of No Objection Certificate (NOC) for mining of minerals from Government Land - Comprehensive Guidelines Issued - Reg

REVENUE (P) DEPARTMENT

G.O.(Ms)No.28/2021/RD Dated,Thiruvananthapuram, 28/01/2021

- Read 1 The Mines and Minerals (Development & Regulation a) Act, 1957
- 2 The Kerala Minor Mineral Concession Rules, 1967
- 3 Circular No 84339/P1/2005/RD dated 30.09.2005
- 4 G.O(P) 16/2015/ID dated 07.02.2015
- 5 Letter No AAG-RT/WPC No 20464/2019 dated 05.12.2019 from Additional Advocate General, Ernakulam

ORDER

As per Section 15 of the Mines and Minerals (Development & Regulation) Act, 1957 read as 1st paper above, the State Govt. enacted Kerala Minor Mineral Concession Rules, 1967 read as 2nd paper above and repealed other Rules in force related to extraction of Minor Minerals in any part of the State. The enactment of Kerala Minor Mineral Concession Rules, 1967 specifies either a short tem permit having a maximum duration of 1 year or a quarrying lease having a maximum duration of 12 years has to be obtained for mining of minor minerals irrespective of the type of land where mining is conducted.

The Kerala Minor Mineral Concession Rules, 1967 specifies that every application for a quarrying permit/lease shall, if the lands from which the minor mineral is to be extracted are occupied lands, be accompanied by a letter from the occupant of such lands to the effect that he has no objection to the extraction of the minor mineral by the applicant. Hence the Department of Mining and Geology demanded consent letter from the owner of the land in case of private lands and since the occupant of Government land for extraction of mineral is Government itself, No Objection Certificate (NOC) was demanded from Revenue Officials for grant of mineral concessions like quarrying permit or lease.

As per the Circular read as 3rd paper above, specific directions were given to issue No Objection Certificate (NOC) for a maximum period of 12 years as lease is granted for a maximum period of 12 years.

As per G.O(P) 16/2015/ID dated 07.02.2015, the Kerala Minor Mineral Concession Rules, 2015 read as 4th paper above was issued in supersession of the Kerala Minor Mineral Concession Rules, 1967. Rule 4(2)(d) of the Kerala Minor Mineral Concession Rules, 2015 specifies about the documents required to be submitted

along with the application for quarrying permit which reads below:

'the possession and enjoyment certificate issued by the Village Officer concerned in respect of the land from which the minerals are proposed to be extracted. In the case of revenue puramboke lands or lands owned by Local Self Government or in the case of forest lands, a No Objection Certificate from the District Collector or Secretary of the Local Self Government Institution or Divisional Forest Officer concerned, as the case may be, to the effect that the department concerned has no objection for the extraction of minor mineral by the applicant subject to the provisions contained in these rules'.

Rule 27 (2)(d) of the Kerala Minor Mineral Concession Rules, 2015 specifies about the documents required to be submitted along with the application for quarrying lease which reads below:

' No Objection Certificate, in the case of revenue puramboke lands or lands owned by Local Self Government or forest lands, from the District Collector or Secretary of the Local Self Government Institution or Divisional Forest Officer, as the case may be, to the effect that they have no objection for the extraction of minor mineral by the applicant subject to the provisions contained in these rules'.

Rule 32(3) of Kerala Minor Mineral Concession Rules, 2015 specifies to facilitate collection of compensation/seigniorage by other departments in addition to the royalty collected by the Department of Mining and Geology which reads below:

' In cases where extraction of minerals is from Revenue Puramboke lands or from lands possessed by other Government Departments or Local Self Governments, the persons who extracts minerals from such land shall be liable to pay compensation or value of minerals, as the case may be, to the department concerned for the quantity of such extraction, as fixed by such departments from time to time.'

Till date, all the mineral concessions for minor minerals in Government land were issued by the Department of Mining and Geology based on the NOC issued by Revenue Officials. However, there was no proper system for granting No Objection Certificate (NOC) for quarrying in Government land, which are fit for mining of minor minerals. The private individuals/companies may turn up and submit an application requesting No Objection Certificate (NOC) from District Collector for conducting mining operation in a Govt land. The Revenue Department upon receiving such application conduct site inspection and if the site is found suitable for quarrying, NOC will be issued. After getting No Objection Certificate (NOC), the applicant will have to further procure licenses/consent/clearances from Petroleum & Explosive & Safety Organization (PESO), Mining and Geology Department, State Environment Impact Assessment Agency (SEIAA), Pollution Control Board (PCB) and Local Self Government (LSGs) concerned. The additional revenue apart from royalty is the collection of seigniorage/compensation only which is very less compared to the market value of the mineral.

The following drawbacks has been noticed in the existing system:

1. Since it is first come first serve, the people who have access to information will be on a comparative advantage as market competition is restricted.

2. There is no better income to the state other than the prefixed minuscule seigniorage.
3. Those who take No Objection Certificate (NOC) in advance may not start production for years and may result in monopolizing the entire sector.
4. There is no proper mechanism for assessment of quantity of mineral extracted and for accounting of compensation/seigniorage.
5. The NOC holder simply abandons the quarry without proper closure after NOC period is over. There is no mechanism to collect the dues.
6. There is no guideline for imposing of penalty for violation of NOC condition and for illegal mining from Government land.
7. Lack of coordination with Dept of Land Revenue and Department of Mining and Geology.

The Additional Advocate General, Ernakulam in the letter dated 05.12.2019 read as 5th paper above has informed that WP(c) No 28977/19 has been filed by Shri Basil Madappilli, Kuttichira, Chalakudy seeking a direction to the District Collector, Thrissur to consider his applications for NOC to conduct quarrying operations in the Govt. properties of Kuttichira Village of Chalakudy Taluk. Similarly WP(c) 20464/19 was filed by Shri Raji Mathew & Company seeking a direction to the District Collector, Idukki to consider their applications for NOC to conduct quarrying operations in the Govt. properties of Elappara Village of Peerumedu Taluk. It has been informed that the writ petitions were considered by the Learned Single Judge on 05.12.2019 and the Hon'ble Court directed to give specific instructions regarding the policy being followed by Govt. while issuing NOC by District Collectors. Hence Additional Advocate General, Ernakulam had requested to give specific instructions whether the Govt. has issued any orders/circulars regulating the issuance of NOCs by the District Collectors under Rule 27(2)(d) of Kerala Minor Mineral Concession Rules, 2015.

Hence, it is noticed that it is imperative that the entire system needs to be revised and a more transparent and efficient model for giving No Objection Certificate (NOC) needs to be issued.

Government have examined the matter in detail and hereby issue the following guidelines for giving No Objection Certificate (NOC) for quarrying operations in Government land to private players, so that it may give a level playing ground to different stake holders and produce more revenue to exchequer out of the precious minor mineral wealth of the state.

Guidelines for grant of No Objection Certificate (NOC) for quarrying of mineral from Government land

Steps	Process	Responsible Officers	Remarks/points to be taken care
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1	Issue of instruction by District Collector to RDO for identification of area suitable for quarrying in each Taluk which are non-arable and uncultivable rocky Govt. land	District Collector	<p>1. Tentative maximum number of NOCs to be put up for bidding in the year to be decided by DC concerned</p> <p>2. Each land parcel having an extent of 1 hectare and above will be made available for quarrying lease. Each land parcel having an extent below 1 hectare will be made available for quarrying permit. The minimum & maximum area will be fixed by DC based on the land availability and fulfillment of legal and statutory requirement.</p>
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2	Identification of areas suitable for issuance of NOC for granite quarrying and preparation of survey maps in 1:1000 scale.	Team headed by RDO consisting of District Geologist, Tahsildar, Taluk Surveyor, Village Officer	<ol style="list-style-type: none"> 1. Area shall be contiguous 2. More than 1 ha(for quarrying lease) or less than 1 ha(quarry permit) to be specified. 3. Shall not fall in landslide susceptible areas (Red Zones) 4. Shall not fall in ecologically sensitive areas, ecologically sensitive zones, forest etc. 5. Shall have prescribed distance (as per KMMC Rules) from the buildings and other structures 6. Shall have road access to the top of the identified area 7. In instances where there is no road access to the Govt. land proposed then bidding shall be done only when road access to the top of the land is made available <p>While submitting suitability report the geological, environmental, social, economic & legal aspects shall be clearly mentioned.</p>
3	Submission of suitability report of the land identified to the District Collector	RDO	
4	Scrutiny of report and finalization of Notice Inviting Tender (NIT) for auction	District Collector	

5	E-tendering of NOC through e-tendering portal of the State (https://etenders.kerala.gov.in)	District Collector	<p>1. The lease rent is fixed @Rs 10 lakhs/ha per annum for a lease period of 12 year duration. The lease rent shall be remitted annually in equal installments. The lease rent fixed @Rs 10 lakhs/ha per annum will be the floor price.</p> <p>2. The bidder quoting the highest lease rent (H1) (amount per unit area) will be selected for awarding the NOC</p> <p>3. The H1 bidder shall pay Security deposit in the head of account specified per ha of land.</p> <p>4. The tender fee and EMD shall be as per the Kerala Stores Purchase Manual</p>
6	Signing of agreement by H1	H1 bidder	He has to sign an agreement with District Collector that he would pay the lease rent as well as the seigniorage if he is awarded the LOI-letter of intent. (H-1 bidder).
7	Award of LoI for grant of NOC with copy to Dept. of Mining and Geology, SEIAA, Secretary of LSGD	District Collector	The LoI shall be treated as NOC for the purpose of processing of lease or other applications (not for actual operation)

File No.REV-P2/285/2017-REV

8	Forwarding of recommendation for issue of NOC with period of NOC and tentative quantity of mineral that could be mined during the lease period	Director of Mining and Geology	After scrutiny of map and inspection of area, precise area will be fixed by Director of Mining and Geology and issues LoI for grant of lease. With this LoI, the applicant approaches SEIAA for EC, PESO for explosive license, LSGI for their license and PCB for consent. After obtaining all these documents applicant approaches Director of Mining and Geology for lease. The DMG shall recommend issue of NOC. (During the processing of application, DMG or SEIAA could suggest some modification in map (area/shape) and Tashildar with the assistance of Taluk Surveyor shall issue revised map subject to approval of DC)
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9	Issue of NOC recording NOC period and the lease rent quoted by the applicant (copies to DMG, Tahsildar, VO)	District Collector	<p>1. Lease rent (lease rent as per H1) at the rate prescribed per hectare/annum shall be collected before issuance of NOC</p> <p>2. Whenever the seigniorage fee is revised by the Government the lease holder will have to pay the seigniorage fee at the revised rate. This condition shall be there in the NOC and bid document</p> <p>3. There shall be a condition in the NOC stating that the seigniorage fee and lease rent shall be remitted in advance before obtaining Movement Permit from Mining and Geology Department. (Collection of seigniorage fee shall be integrated in KOMPAS software of Mining and Geology Dept). In case of collection of arrear royalty or royalty (for excess extraction) by Dept. of Mining and Geology, the same shall be intimated to Tahsildar and the Tahsildar shall collect seigniorage for the excess quantity if any.</p>
10	Forwarding a copy of lease order along with one approved mining plan to DC and Tahsildar concerned	DMG	
11	Collection of seigniorage/arrear etc	Tahsildar	
12	Collection of dues on expiry of lease period (if any)	Tahsildar	<p>1. Tahsildar shall intimate DC regarding the collection of dues if any on the expiry of lease</p> <p>2. In case of any violation in mining or if any default in remitting any charges, the NOC holder will be terminated and be blacklisted for 12 years</p>

13	Release of security deposit after expiry of lease/NOC period	DC	The security deposit shall be forfeited to Govt if the lease holder fails to obtain lease or carry out mining as per the conditions of NOC; lease, EC etc
14	Periodic Report submission	NOC holder	NOC holder shall submit a status report once in two years prepared by a Recognized Qualified Person (Recognized Qualified Person (RQP) is the person authorized to prepare the minning plan as per KMMC Rules) which contains the details of quantity of mineral extracted and the levels thereof to DC with a copy to RDO
15	Periodic Inspection	Tahsildar	Tahsildar shall inspect the quarry area with the help of Taluk Surveyor and ensure that there is no violation of NOC or lease condition and report the matter to RDO and DC
16	Violation of lease/NOC condition is noticed	RDO DC	<p>If excess amount of mineral is extracted but within the territorial extent, provided the lease area is not violated, then it can be regularized by imposing a Regularization fee not less than 5 times of Seigniorage for that quantity which is extracted in excess by the RDO.</p> <p>If the NOC holder extract the excess amount of mineral from the area beyond the lease area, then DC will cancel the NOC with immediate effect and DMG shall cancel the mining lease upon the report from DC. A Regularization fee not less than 5 times of Seigniorage for that quantity which is extracted in excess shall also be imposed.</p>

As per the existing rate specified in the Kerala Store Purchase Manual for the total quoted amount. Refundable to those unsuccessful bidders after the completion of 15 days from the date of issuing of Lol or 3 months from the bid opening date whichever is earlier.

Seigniorage

Amount of compensation for the loss of mineral wealth in the Government land. It is fixed per ton of mineral and shall be revised from time to time by Government by Notification.

Lease Rent

A non-refundable one-time fees to be remitted for obtaining NOC from the District Collector. The basic concept is that the Government is giving the occupancy of the land for 12 years. The lease rent is fixed @Rs 10 lakhs/ha per annum for NOC period. The lease rent fixed @Rs 10 lakhs/ha will be the floor price. The bidding shall start from the floor price fixed by Govt. The bidder who bids the higher lease rent (H1) (amount per unit area) will be selected for awarding the NOC. The lease rent will be remitted in the same head of account where the seigniorage fee is remitted.

Security Deposit

The Security Deposit is fixed @ Rs 10 lakhs/ha. It is the amount to be remitted in the specified treasury account which will act as a security for carrying out mining as per the approved mining plan. It should be remitted before awarding of Lol by District Collector and shall be refundable to the NOC holder once he completes entire operations including mine closure as per the approved Final Quarry Closure Plan.

Eligibility to Participate in the bidding process

All persons/firms/companies/associations except those who are blacklisted by Government of India or Government of Kerala or by the Government of any states or union territories are disqualified in participating in the tender process. Blacklisted persons/firms/companies/associations include persons who are the directors of blacklisted companies, or those companies formed by those persons who are either blacklisted or the directors of any blacklisted companies.

Preparation of bid document

Preparation of bid document, the process of auction and final award is to be done by the respective District Collectors.

2. Issues

No	Scenario	Result	Option to be exercised
1	LoI is issued and the bidder failed to obtain other statutory licenses	He will lose security deposit as it is his mistake	There shall be a period fixed for LoI within which lease shall be obtained. This period could be extended by the DC if there is valid reason
2	LoI is issued and the statutory agencies refused to grant their licenses	He will lose security deposit	Refunding half the security deposit if the mistake is not from the part of applicant
3	NOC is issued after collecting lease rent and the lessee fails to mine mineral	He will lose lease rent	
4	NOC is issued after collecting fee and statutory agencies withdraw licenses	He will lose lease rent if the statutory agencies cancel license due violation of conditions	Half the amount could be refunded if the mining is stopped due to enactment of new act or rule
5	Mining dues pending from the lease holder	Recover seigniorage and royalty by RR. He will lose the security deposit	
6	Lease holder fails to close the mine properly	Security deposit will not be refunded	

7	Lease holder wants to transfer the lease (there is provision to transfer lease (KMMCR) as well as EC (EIA Notification)	Not allowed	Permitted with prior sanction of DC. Transferor person has to clear the dues and the transferee person has to sign agreement.
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3. Regarding existing quarries in Government land

In case of existing quarries (around 50 numbers) for which NOCs were issued earlier, the District Collectors concerned will be instructed to get take the volume of mineral extracted through Taluk Surveyors and to take necessary action in consultation with District Geologist for collecting the arrear of seigniorage if any.

4. Repeated offence :

If anybody repeats the offense then NOC will be cancelled and the company will be blacklisted for 5 years. If partner/director in the defaulting company is present in new company then that company cannot participate in bidding (since it is very easy to form a new partnership firm or company and next time they participate in bidding in new name).

5. Procedure for quarrying after lease period

Government land is given for lease for quarrying for a period of 12 years. After the lease period, necessary certification from the District Geologist be obtained to ensure that further quarrying be permitted. If found feasible, all procedures/guidelines as stated above needs to be started afresh for granting lease.

6. Procedure for quarrying after lease period if application is submitted by the same individual/organization

Government land is given for lease for quarrying for a period of 12 years. After the lease period, necessary certification from the District Geologist be obtained to ensure that further quarrying be permitted. If the same individual/organization who was running the quarry submits an application for lease then the same individual/organization may be granted lease for an another period of 12 years by fixing the lease rent @Rs 10 lakhs/ha per annum for 12 years without bidding and by depositing the security deposit @ Rs 10 lakhs/ha. Provided no more further lease may be granted to the said

individual/organization after the tenure.

These guidelines, may be brought to the notice of all concerned for further necessary action and strict compliance.

(By order of the Governor)
DR. A JAYATHILAK IAS
PRINCIPAL SECRETARY

To:

The Commissioner of Land Revenue
The Director of Mining & Geology, Thiruvananthapuram
Deputy Chief Controller of Explosives,
Petroleum & Explosive & Safety Organization (PESO),Ernakulam
The Chairman, State Environment Impact Assessment Agency (SEIAA),
The Chairman, Pollution Control Board (PCB)
All District Collectors
All Revenue Divisional Officers
All Tahsildars

Copy To:

PS to Hon'ble Chief Minister
PS to Hon'ble Minister (Revenue)
PS to Hon'ble Minister (Industries)
PS to Hon'ble Minister (LSGD)

Forwarded /By order

Signature valid

Digitally signed by Kadeeja A A
Date: 2021.07.25 14:45:32 IST
Reason: Approved

Section Officer