

# **Bihar District Mineral Foundations Rules, 2018**

BIHAR

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### **Rule BIHAR-DISTRICT-MINERAL-FOUNDATIONS-RULES-2018 of 2018**

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In exercise of the powers conferred by sub-section (4) of Section 15 and Section 15A read with Section 9B of the Mines and Minerals (Development and Regulation) Act, 1957 (Act 67 of 1957), as amended in 2015, the Governor of Bihar is pleased to hereby make the following rules to regulate the composition, functions and manner of working of the District Mineral Foundations and the amount of payment to be made to the District Mineral Foundations by the concession holders of major & minor minerals for the interest and benefit of persons and areas affected by mining related operations and for purposes connected herewith, namely:-

#### **1. Short title, extent and commencement.**

- (i) These Rules may be called the Bihar District Mineral Foundations Rules, 2018.(ii)These Rules shall extent to the whole of the State of Bihar.(iii)These Rules shall be deemed to have come into force with effect from the 12th day of January, 2015.

#### **2. Definitions.**

(1)In these rules, unless the context otherwise requires,-(a)"Act" means the Mines and Minerals (Development and Regulation) Act, 1957 (Act 67 of 1957); as amended in 2015.(b)"Affected areas" means the area indentified in Sub-Rule (1) of Rule 15 of these Rules.(c)"Affected People" means the persons indentified in Sub-Rule (2) of Rule 15 of these Rules.(d)"Foundation" means the District Mineral Foundation of the respective district.(e)"Fund" means fund of the Foundation;(f)"Government" means the Government of Bihar.(g)"Rules" means the Bihar District Mineral Foundations Rules;(h)"Trust" means the District Minerals Foundation constituted under these rules;(i)"Year" means financial year commencing from the 1st April and ending on the 31st March.(j)"PMKKKY" means Pradhan Mantri Khanij Kshetra Kalyan Yojana.(2)The words and

expressions used but not defined in these rules shall have the same meaning as assigned to them in the Mines and Minerals (Development and Regulation) Act, 1957 (Act 67 of 1957) as amended in 2015 or as may be defined under the provisions of the Bihar Minor Mineral Concession Rules, 1972, as amended in 2014.

### 3. Trust and its constitution.

- (i) There shall be constituted for each District of Bihar a Trust established in terms of sub-section (1) of section 9 (B) of the Act to be known as the District Mineral Foundation for the said District; (ii) The Trust shall be perpetual body and shall have a common seal. (iii) Each of the Foundation shall have its headquarter at the respective District Headquarter

### 4. Composition of Board of Trustees of the District Mineral Foundation.

(1) The District Mineral foundation in each of the district shall consist of the following members namely:-

| Sl.No. | Name and Designation   | Designation in Governing Council |
|--------|--|----------------------------------|
| 1      | Collector  | Chairperson                      |
| 2      | Additional Collector   | Co-Chairperson                   |
| 3      | Assistant Director Mines/ Mineral Development Officer/Mines Inspector Member Secretary   |                                  |
| 4      | Director, District Rural Development Agency  | Member                           |
| 5      | Divisional Forest Officer  | Member                           |
| 6      | Civil Surgeon  | Member                           |
| 7      | District Welfare Officer   | Member                           |
| 8      | District Co-Ordinator, Jeevika   | Member                           |
| 9      | District Accounts Officer  | Member                           |
| 10     | District Cooperative Officer   | Member                           |
| 11     | Any other officer authorized by the Collector.   | Member                           |
| 12     | Two Representatives' One from Major Mineral & Other from Minor Mineral) from the holders of Mineral concession belonging to the concerned district Members |                                  |
| 13     | Any person from mining affected area, nominated by the Collector   | Member                           |

(2) The Chairperson may invite such other officials to the meetings of the Foundation, as he/she may consider necessary. (3) The quorum for the Foundation shall be fifty percent of the members. (4) The Foundation shall meet at least once every quarter and more frequently if required, and accordingly take decisions regarding utilization of the Fund in an effective, transparent and accountable manner. The Chairperson shall arrange for the maintenance of the books of accounts of the Fund.

## **5. Objectives of the Foundation.**

- The District Mineral Foundation shall work for the interest and benefits of the people and areas affected by mining related operations in the districts in such manner as may be prescribed by the State Government in order to meet the following objectives:- (a) To Implement various developmental and welfare projects or programs in mining affected areas. (b) To minimize or mitigate the adverse impacts, during and after mining, on the environment, health and socio-economics of people in mining districts. (c) To ensure long-term sustainable livelihoods for the affected people in mining areas. (d) Funding of expenditure incurred on implementation of any scheme of incentives that the State Government may frame for recognition and awards for scientific mining undertaken with highest regard to mineral conservation, rehabilitation measures along with environmental safeguards and other measures. (e) Implementing the objectives specified in Pradhan Mantri Khanij Kshetra Kalyan Yojana (P.M.K.K.KY.) (f) Any other objective which the State Government may consider expedient to support in the overall interest of the mining sector.

## **6. Powers and Functions of the Foundation.**

- The Foundation shall have the overall control over the management and functioning of the Trust and shall, subject to the guidelines or directions, if any, issued by the Government from time to time, have the powers to (a) Approve the annual budget and action plan for the Trust; (b) Approve the master plan or perspective plan; (c) Decide the priority areas and allocations; (d) Appoint the auditors and approve the annual reports; (e) Monitor the proper functioning of the Trust. (f) Carry out other activities as notified by the Central/State Govt, from time to time.

## **7. Fund of the Trust.**

- The funds of the Trust shall comprise : (a) Payment to the Trust made by the holders of mineral concessions at the rates specified by Central/State Government. (b) All receipts and incomes including interest accrued on the deposits made in the Bank Account. (c) Voluntary contributions, if any, received by the Trust from any person or Organization. (d) Any other grant, subvention and/or financial assistance notified for this purpose by the Government.

## **8. Bank Accounts.**

- The Fund shall be kept in any Scheduled Bank or a Bank designed for this purpose by the Government through a Savings Bank Account in the name of District Mineral Foundation or such name as decided by the Government in this regard and such account shall be operated under the joint signatures of at least two of the three signatories, viz. Chairperson, Co-chairperson and Member Secretary.

## **9. Amount payable by the holders of mineral concessions to the Trust.**

(1) In respect of Major Minerals, in addition to royalty, there shall be paid to the respective District Mineral Foundation, an amount equivalent to such percentage of royalty as prescribed by the Central Government under sub-section (5) and sub-section (6) of Section 9B of the Act. (2) Every holder of a mining lease or a prospecting license-cum-mining lease, shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount at the rate of: (a) ten percent of the royalty paid in terms of the Second Schedule to the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) (As amended in 2015) in respect of mining leases or, as the case may be, prospecting license-cum-mining lease granted on or after 12th January, 2015; and (b) thirty percent of the royalty paid in terms of the Second Schedule to the said Act in respect of mining leases granted before 12th January, 2015. (3) In respect of Minor Minerals an amount equal to two percent or @ prescribed by the State Government from time to time of the annual auction/settlement amount/compounded royalty as per category fixed in case of brick earth/royalty payable by permit holder/royalty paid by existing lease holder shall be charged from the mineral concession holder on annual basis and credited to the Foundation, in addition to the amount payable to the Government on account of such concession. (4) The said contribution shall be remitted by the mineral concession holder by 31st December every year during the entire concession period. In case of sand settlement, the said amount shall be paid along with the installments of mining royalty. (5) For default in payment till prescribed date simple interest @ 24 percent per annum or as decided by the State Government shall be charged from the Mineral concession holder.

## **10. Mode Of Payment of Contribution.**

- By way of Bank Draft @ specified in this rules, drawn in favour of DMF Trust, (Name of District), Payable at (Name of the District)

## **11. Expenditure/Utilization of the District Mineral Foundation Fund.**

(1) The expenditure and utilization of fund accrued under the District Mineral Foundation shall be done as per the Pradhan Mantri Khanij Kshetra Kalyan Yojana (P.M.K.K.K.Y.) details of which are annexed as Annexure-I and/or in a manner as decided by the Central/State Government from time to time. (2) The District Mineral Foundation shall abide by all guidelines and directions issued in respect of the Pradhan Mantri Khanij Kshetra kalyan Yojana (P.M.K.K.K.Y.) and/or other schemes by the Central/State Governments, as applicable.

## **12. Maintenance and audit of accounts.**

(1) The accounts of the District Mineral Foundation shall be maintained in the form, mode and manner as may be decided by the Government. (2) The accounts of the District Mineral Foundation shall be audited in such manner as may be decided by the Government. (3) After the audit the District Mineral Foundation shall submit the annual report to the Government.

### **13. Annual Report.**

(1) Every year, within three months from the date of closure of the Financial Year, the Foundation shall cause to prepare an annual Report on the activities of the Trust for the respective year. (2) The Annual Report will be submitted to the Government within one month from the date of its approval by the Foundation and will also be hoisted on the website of the Foundation. (3) The Annual Report of each Foundation shall be laid before the State Legislative Assembly.

### **14. Monitoring of the amount payable to the Foundation.**

(1) Every lessee/Mineral Concession holder shall remit the amount payable to the Foundation into the credit of such bank account as the Government may specify. Every Officer who is authorized to collect royalty shall maintain a register of the amount payable and paid by each lessee/ Mineral Concession holder and furnish the monthly consolidated statement thereof to the Chairperson of the foundation at the end of every month.

### **15. Identification of Affected Areas and People.**

(1) Affected Areas : (a) Directly affected areas are where direct mining- related operations such as excavation, mining, blasting, beneficiation and waste disposal, overburdened dumps, tailing ponds, transport corridors etc. are located and shall include: (i) Villages and gram panchayats within which the mines are situated and are operational. Such mining areas may extend to neighboring village, block or district on even state. (ii) An area within such radius from a mine or cluster of mines as may be specified by the State Government, irrespective of 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. (iv) Villages that significantly depend on the mining areas for meeting their economic needs and have traditional rights over the project areas, for instance, for grazing, collection of minor forest produce etc. (b) Indirectly affected areas are those areas where local population is adversely affected on account of economic, social and environmental consequence due to mining-related operations. The major negative impacts of mining could be 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 operation, transportation of minerals, increased burden on existing infrastructure and resources. (2) Affected people - (a) The following shall be considered as directly affected persons: (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 (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. (iii) Any other as appropriately identified by the concerned Gram Sabha. (b) Persons affected by mining shall include people who have legal and occupational rights over the land mined, and also those with usufruct and traditional rights. (c) Affected families shall be identified, as far as possible, in consultation with local/elected representatives of Gram Sabha or the Urban Local Body as the case may be. (3) The District Mineral Foundation shall prepare and maintain an updated list of such affected areas and people.

## **16. Power of Government to relax the operation of any provision of these Rules.**

- State Government may, relax the operation of one or more of the provisions of these Rules if, in the opinion of the Government, such relaxation is necessary in public interest.

## **17. Power of Govt, to remove difficulties.**

- If any difficulty arises in giving effect to the provisions of these Rules, the State government may make such notifications, not inconsistent with the Rules, as appear to it to be necessary or expedient for removing the difficulty. Annexure-1 Guidelines of PMKKKY published vide No. 16/7/2015-M.VI (Part) Government of India, Ministry of Mines, New Delhi Shastri Bhawan Dated 16 September 2015 The Pradhan Mantri Khanij Kshetra Kalyan Yojana (PMKKKY) will be implemented by the District Mineral Foundations (DMFs) of the respective districts using the fund accruing to the DMF. The overall objective of PMKKKY scheme will be (a) to implement various developmental and welfare projects /programs in mining affected areas, and these projects/programs will be complementing the existing ongoing schemes/projects of State and Central Government; (b) to minimize/mitigate the adverse impacts, during and after mining, on the environment, health and socio-economics of people in mining districts; and (c) to ensure long-term sustainable livelihoods for the affected people in mining areas.

## **1. Identification of affected areas and people to be covered under the PMKKKY**

(1) Affected area (a) Directly affected areas- Where direct mining-related operations such as excavation, mining, blasting, beneficiation and waste disposal (overburdened dumps, tailing ponds, transport corridors etc.) are located. a. Villages and gram panchayats within which the mines are situated and are operational. Such mining areas may extend to neighbouring village, block or district on even state. b. An area within such radius from a mine or cluster or mines as may be specified by the State Government, irrespective of whether this falls within the district concerned or adjacent district. c. Villages in which families displaced by mines have resettled/ rehabilitated by the project authorities. d. Villages that significantly depend on the mining areas for meeting their economic needs and have usufruct and traditional rights over the project areas, for instance for grazing, collection of minor forest produce etc. should be considered as directly affected areas. (b) Indirectly affected areas- Those areas where local population is adversely affected on account of economic, social and environmental consequences due to mining related operations. The major negative impacts of mining could be 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, increases burden on existing infrastructure and resources. (c) The DMF shall prepare and Maintain an updated list of such directly and indirectly affected areas by mining related operations. (2) Affected people a. The following shall include as directly affected person (a) As defined under Section 3(C) of right to fair compensation and transparency in land acquisition, rehabilitation (b) As defined under Section 3(K) of right to fair compensation and transparency in

land acquisition, rehabilitation(c)Any other as appropriately identified by the concerned gram sabha.b. Persons affected by mining should include people who have legal and occupational rights over the land being mined, and also those with USUFRUCT and traditional rights.c. Affected families should be identified, as far as possible, in consultation with local/elected representatives of gram sabha.d. The DMF shall prepare and maintain an updated list of such affected persons/ local communities.

## 2. Utilisation of Funds

(1)Scope of PMKKKY - The PMKKKY may cover the activities listed below:High priority areas-at least 60 % of PMKKKY funds to be utilized under these heads:a. Drinking water supply - centralized purification system, water treatment plants, permanent/temporary water distribution network including standalone facilities for drinking water, laying of piped water supply system.b. 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 & surface pollution control mechanisms required for environment-friendly and sustainable mine development.c. Health care- the focus must be on creation of primary/ secondary health care facilities in the affected areas. 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. 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. 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. Group insurance Scheme for health care may be implemented for mining affected persons.d. Education - construction of school buildings, Additional class rooms, Laboratories, Libraries, Art and craft room, Toilet blocks, Drinking water provisions Residential Hostels for students/teachers in remote areas, sports infrastructure, engagement of teachers/other supporting staff, e-learning setup, other arrangement of transport facilities(bus/van/cycles/rickshaws/etc.) and nutrition related programs.e. Welfare of Women and Children- Special programme for addressing problems of maternal and child health, malnutrition, infectious diseases, etc. can be taken up under the PMKKKY.f. Welfare of aged and disabled people - Special programme for welfare of aged and disabled people.g. Skill development- Skill development for livelihood support, income generation and economic activities for local eligible persons. The projects/ schemes may include training, development of skill development center, self-employment schemes, support to Self Help Group and provision of forward and backward linkage for such self-employment economic activities.h. Sanitation - Collection, transportation & disposal of waste, cleaning of public places, provision of proper drainage & Sewage Treatment Plant, provision for disposal of fecal sludge, provision of toilets and other related activities.Other priority Areas - Up to 40% of the PMKKKY to be utilized under these heads.a. Physical infrastructure - providing required physical infrastructure - road, bridges, railways and waterways projects.b. Irrigation - development of alternate sources of irrigation, adoption of suitable and advanced irrigation techniques.c. Energy and Watershed Development - Development of alternate source of energy(including micro-hydel) and rainwater

harvesting system. Development of orchards, integrated farming and economic forestry and restoration of catchments.d. Any other measures for enhancing environmental quality in mining district.(2)General Guidelinesa. The development and welfare activities to be taken up under the PMKKKY should be, as far as possible, in the nature of complementing the ongoing schemes/projects being funded by the State as well Central Government. Activities meant to be taken up under the "polluter pays principle" should not be taken up under the PMKKKY, However, without prejudice to the power of the Foundation, efforts shall be made to achieve convergence with the State and the District Plans so that the activities taken up by the Foundation supplement the development and welfare activities and are treated as extra-budgetary resources for the State Plan.b. An amount not exceeding 5% of the annual receipts of the Foundation subject to an upper limit fixed by State government may be utilised for administrative, supervisory and overhead costs of the Foundation. As far as possible, no temporary/permanent posts should be created under PMKKKY, Any creation of temporary/permanent posts and purchase of vehicle by the foundation shall require prior approval of the State Government, However, minimum required staff can be engaged on contractual basis.c. 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 Foundation, as may be decided by the Government, shall be transferred to the Foundation of the other district concerned for taking up the activities in such areas. A project that is for benefit of the affected area/people, but stretches beyond the geographical boundary of the district should be taken up under the PMKKKY after obtaining prior approval of the State Government. Projects for development for common infrastructure like construction for 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. The prior approval of the State Government, before taking up such works in excess of the limits of fund utilization.d. A reasonable sum of the annual receipts should be kept as endowment fund for providing sustainable livelihood.(3)Special provisions for scheduled areas. - The process to be adopted for utilization of PMKKKY funds in the scheduled areas shall be guided by the provisions contained in Article 244 read with Schedule V and Schedule VI to the Constitution relating to administration of the Scheduled Areas and Tribal Areas and the Provisions of the Panchayat (Extension to the Scheduled Areas) Act, 1996 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.In respect of villages affected by mining situated within the scheduled areas:(i)Approval of the Gram Sabha shall be requireda) For all plans, programmes and projects to be taken up under PMKKKY.b) Identification of beneficiaries under the existing guidelines of the Government.(ii)Report on the work undertaken under PMKKKY in the respective village shall be furnished to the Gram Sabha after completion of every financial year.[Gram Sabha will have same meaning as assigned to it for the purpose of implementation of the Provisions of the Panchayat (Extension to the Scheduled Areas) Act, 1996 (Act 40 of 1996)]

#### **4. Implementation of Works/ Contracts. - i. Works/ goods may be procured by the DMF after following the due procedure prescribed by the respective State Government for such procurements.**

ii. Transfer of fund to all agencies and beneficiaries shall be into their bank account.



**5. Compliance of Transparency. - (1) Each Foundation will prepare and maintain a website on which, inter-alia, following information will be hosted and kept updated:-**

i. Details of composition of the DMF/bodies of DMF (if any).ii. List of areas and people affected by mining.iii. Quarterly details of all contribution received from lessees and other.iv. All meeting agenda, minutes and action taken reports (ATRs) of the DMF. v. Annual Plans and budget. Work orders, Annual Report.vi. Online status of ongoing works - implementation status/progress of all the projects/programmes being undertaken under PMKKKY should be made available on the website, including description of work, details of beneficiaries, estimated cost, name of implementing agency, expected date of commencement and completion of work, financial and physical progress upto last quarter etc.vii. List of beneficiaries under various welfare programme.viii. Voluntary disclosure under RTI Act.

**6. Audit. - The accounts of DMF shall be audited every year by the Chartered Accountant appointed by the DMF, or in such other manner as the Government may specify, and the report thereof shall be placed in the public domain along with the Annual Report.**

**7. Annual Report. - a. Every year, within three months from the date of closure of the financial year, the DMF shall cause to prepare an Annual Report on its activities for the prescribed financial year and place it before the DMF.**

b. The Annual Report will be submitted to the Government within one month from date of its approval by the DMF and will also be hoisted on the website of the foundation.c. The annual report of each foundation shall be laid before the state Legislative Assembly.