

Gemstone Policy of Orissa, 1998

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Gemstone Policy of Orissa, 1998Published vide Notification Orissa Gazette No. 28, dated 24.7.1998, SRO No. 304/98S.R.O. No. 304/98. - Formulation of a Gemstone Policy based on the experience gained and difficulties encountered in the implementation of the existing Policy laid down in the various Steel and Mines Department Notifications, circulars and letters has been under consideration of the Government of some time past.

1.

Gemstone occurrences of different varieties are found mostly in the district of Bolangir, Sambalpur, Subarnapur, Kalahandi, Nawapara, Phulbani, Koraput and Angul etc. Finds of gemstones in the late seventies attracted the attention of Government following which the State Directorate of Mining and Geology deployed their geological exploration units during 1978-79 to assess the resources. Instances of clandestine extraction and illegal trading of gemstone also came to light during this period, Accordingly with a view to preventing these unlawful activities and developing the gemstone resources on a systematic and scientific basis, a set of instructions were issued in the then Mining and Geology Department letter No. 11728 & No. 11735, dated the 31st October 1981 in which the Orissa Mining Corporation (OMC) was authorised to take up exploration mining in the districts of Bolangir, Sambalpur and Dhenkanal as an agent of the State Government. The area of operation was subsequently extended to other district.

2.

In 1986 the State Government reserved certain areas in the State district of Bolangir, Sambalpur and Kalahandi by notifications for exploitation by the Public Sector (OMC) under the then Rule 58 of the Mineral Concession Rules, 1960 (deleted from M.C. Rules, 1960 by an amendment in the 13th April 1988. Subsequently several Notifications were issued under Rule 75 (2) during 1988 and thereafter appointing (OMC) as an agent of the State Government to operate in these areas. OMC was also authorised to form joint sector Companies and hold 51% share therein. The Notification issued

during 1988 further stipulate that Orissa Mining Corporation would sell gemstone to Joint Sector Companies with a view to ensuring an uninterrupted supply of gemstone to lapidary units in the State. The Gemstone Corporation of Orissa Ltd. (GEMCO) was formed on the 4th January 1989 and OMC was authorised to open purchase centres to procure gemstone from the local people in order to check smuggling. Royalty was assessed on the purchase price paid by OMC, PL/ML for gemstone was granted to OMC alone in the areas reserved for the purpose. In 1991 exploration scheme was launched with UNDP assistance to identify and assess the availability of gem bearing area.

3.

Gemstone Policy 1994 -3.1In 1994 a new Gem Policy based on the experience gained and difficulties uncounted formulated by Government in Steel & Mines Department and announced in Notification No. 49 dated the 1st January 1994. It outlined the following provisions : (i) Agency of the OMC would be withdrawn limiting it only to cases where illegal mining is detected. (ii) OMC would undertake prospecting and/or commercial mining of the areas held by it on PL/ML either on its own or Sub-lease the same to joint venture or assisted companies for similar purpose. (iii) Director, Mining & Geology would prepare a list of gemstone bearing areas to be reserved for prospecting by the Directorate. (iv) Out of the areas so reserved, the areas having promising gemstones potential would be given to OMC on ML. (v) The areas not taken by OMC would be thrown open to private parties. (vi) Applications of private parties for grant of ML would be considered under certain terms and conditions. (vii) The daily collection of gemstones would be properly accounted for and kept in safe custody. (viii) Every two months, the total collection of gemstone should be opened before committee and valued. (ix) OMC may operate purchase centres or authorise and assisted/ Joint Venture Company operate the same to procure gemstones from private individuals who find them in their private land. (x) Royalty would be calculated on the sale price at "Pit's month value" which the price at which gemstones are sold by the officers. (xi) The implementation of this policy would be reviewed every two months.

4.

- 4.1. The Gemstone Policy, 1994 did not achieve the desired results due to following reason : (i) Under the policy a poor farmer or villager getting a piece of gemstone could sell it only to OMC whose representatives are not readily accessible and who take their own time for assessment of value and payment. As such he preferred to sell it clandestinely at throw away price through a middle man who took it away and sold it at higher price at centres of gemstone trade. This transaction deprived the finder of a legitimate price for the gemstone and the Government of the royalty. The clandestine trade only benefited the middleman and lower level officials to the detriment of the finder and the Government. (ii) Large scale scientific and commercial exploitation of the gem-bearing areas through public or private sector did not take place. The only joint venture exploiting a limited lease-hold areas also did not achieve the desired results. Due to lack of exploitation of gem-bearing tracks, the State Government have not been able to benefit from this sector. In fact, the royalty received annually from gemstone is only of the order of Rs. 4.5 lakhs which can increase manifold through a rational policy of wide scale exploitation of gemstone-bearing areas. (iii) Lapidary units for cutting and polishing of gemstone which would have

provided local value addition, large scale employment and income to the State Exchequer became a casualty of the policy. Under the preventing regime of clandestine extraction and illegal trading of gemstone, genuine entrepreneurs wanting raw materials for the lapidary units were completely starved. A few lapidary units that come up in the State closed down for want of raw-materials.4.2Accordingly the State Government, in 1996, formed a Committee under the Chairmanship of the Commissioner-cum-Secretary. Department of Steel & Mines to recommend measures for formulation of a new policy with the following objectives :(i)to ensure higher income for the State mining of gemstone and local lapidary units.(ii)to ensure greater employment through gemstone mining cutting and polishing activities.(iii)to stop clandestine extraction and trading and ensure higher income to Government and poor villagers.(iv)to ensure transparency in the matter of grant of lease/licence for extraction and trading of gemstones.

5. Legal Framework.

- 5.1. Gemstone is not the "specified mineral" indicated in the First Schedule of Mines and Mineral (Regulation and Development) Act 1957. In the first schedule, only "Precious stones" have been mentioned as major mineral requiring prior approval of Government of India for grant of PI/ML. The MMRD Act however, does not define precious stones. The gemstones found in Orissa in general are of "Semi-precious varieties" and as such do not come under specified minerals listed in Schedule-I of the Act. Accordingly the State Government is competent to grant PL/ML in respect of such gemstones without prior approval Government of India However, if precious stones are found during mining operation, the necessary approval is to be obtained by the lessee as per the provisions of MMRD Act and MC Rules.5.2Under the UNDP Project 28 gem-bearing tracts have so far been identified. Out of this 18 gem-bearing tracts have been prospected, 11 by the Directorate of Mining & Geology (DMG) and 7 by OMC. Although OMC holds PL/ML in 8 gem-bearing areas already prospected as indicated above and have applied PI in other areas in the State reserved for them, it is not possible for OMC to exploit all such areas. Government would therefore decide the tracts to be given to OMC under Mining lease for exploitation either by OMC itself or through joint ventures. The other tracts would be opened for exploitation by private parties.

6. Parameters of the New Policy.

- The committee formed by the State Government to recommended measures for the new policy, has given its report in which the recommendations include :(a)throwing open 18 prospected tracts to prospective entrepreneurs including OMC for grant of mining liase.(b)time-bound exploration programme for the unprospected areas(c)continuance of OMC as agents of the State Government for the unprospected areas and granting of contract/sub-lease to entrepreneurs under OMC for exploitation of the areas.(d)selection criteria for parties for grant of mining lease.(e)grant of trading licence to parties including lessees for purchase of gemstone from all available sources including tenants in a competitive manner.(f)system of assessment of royalty on pre-determined pit's mouth value, etc.6.2The State Government have carefully considered the prevailing policy, the legal framework, recommendations of the Committee, etc. and keeping in view the all Development of gemstone resources in the State are pleased to lay down a new Gemstone Policy, 1998, as described in the following paragraphs.6.3All the gemstone areas can be divided into 3 categories -(a)18

gem-bearing tracts which have been identified and prospected by DMG and OMC under UNDP Project.(b)Remaining 10 attracts identified under UNDP Project where prospecting has started but not completed.(c)Other areas in the State which have not all been prospected so far.6.4Office of the gem-bearing tracts already explored (Presently eighteen), Government would decide the tracts to be given to OMC under Mining lease. The balance tracts would be dereserved and thrown open for grant of mining lease to private parties.6.5As indicated at Para-6.3 (b), Prospecting of 10 gemstone bearing tracts identified under the UNDP Project has been started and is expected to be completed shortly. The Director, Geology/OMC will be instructed to complete the prospecting work expeditiously. After prospecting is completed, these 10 tracts would be thrown open for grant as at para-6.4. Till that time, OMC would continue to be the agent.6.6The 3rd category is the areas which have not been prospected so far as indicated at para 6.3. (c). OMC may continue as an Agent of the State Govt, under Rule 75 (2) of MC Rules, 1960 till prospecting is completed over those areas. The areas not at all identified and prospected so far are located in Bolangir, Sambalpur, Subarnapur, Kalahandi, Nawapara, Phulbani, Koraput and other districts. The Director, Geology will chalk out a time frame within which the prospecting of these areas will be completed along with OMC. As soon as the prospecting is completed, it will be thrown open for grant of ML as at para-6.4.

7. Selection Criterial for Grant of Mining Lease.

- Preference in grant of ML would be given to the parties on the following parameters :(a)The financial standing of the party including a commitment that it will put in an investment of at least Rs. 100 lakhs within the specified period in the shape of plant and machinery/other processing facilities.(b)Technical expertise available with the applicants.(c)Parties who have the experience of dealing with gemstone and processing thereof including lapidary operations.(d)OMC may be given preference subject to their ability to handle the areas.

8. Condition of Leas.

(a)The mining lease will be granted for a period of 20 years(b)A lapidary unit will be set up within a period of 5 years from the date of execution of the lease(c)Supply of gemstones to local lapidary units on preferential basis

9. Trading Licences.

- 9.1. Gemstone are an important Foreign Exchange earner and it may contribute sizeable revenue to the State Exchequer. With this in view, the Committee has recommended introduction of Trading Licence for collection of gemstones inside the State.9.2Gemstone are minerals which come under the purview of Mines and Mineral (Regulation and Development) Act, 1957. Mining of such minerals from any land Government or private-amounts to mining under Section 4(1) of MM (R. & D) Act. No. person can undertake prospecting or mining operations without taking PL/ML from Government over the areas from which the gemstones are found. As such any one other than a lessee finding a gemstone from an area outside the leasehold are had to surrender the same to Government. To encourage people finding gemstones from sporadic areas to surrender the same to Government, the State Government had adopted the policy (in notifications indicated under paras.

(1 & 2) that the finders would be paid 50% of the value of the gemstones by OMC which worked as the agent of Government for the entire State. Government allowed OMC to retain the gemstones on payment of royalty as per rules. However, this arrangement has not been very helpful as the finders in interior areas are tempted to sell the gemstones clandestinely to middle men operating in those areas and offering low but ready price for the gemstones. OMC had been getting only Rs. 30-40 lakhs worth of gemstones per year through such purchases which is only an insignificant fraction of the total transactions. As such OMC has suspended its purchasing operations for the last two years. Accordingly, a more rational and workable arrangement has to be devised to enable the finders to freely sell the gemstones found any where from non lease hold areas to the authorised licencees who would pay the royalty to Government for the same and be permitted to dispose of the gemstones in an open and transparent manner.

9.3 The best way to achieve this objective is to appoint a number of Trading Licencees under the Orissa Minerals (Prevention of Theft, Smuggling and Unlawful Activities) Act, 1989 and also induct them simultaneously as Sub-agents of OMC in respect of all non leasehold areas for which OMC continues as agent of the State Government under this arrangement, all lessees and selected persons agencies with financial credibility and business experience, can be appointed as trading licencees and sub-agents of OMC to collect gemstones from any finder and dispose of the gemstones in any manner they like after payment of royalty to Government. The finders can collect from any locality (outside the leasehold areas), for which OMC continues as agent of Government. This modification of the existing policy will induce competition among a number of trading licencees to buy gemstones from the finders by paying a better price to them on competitive basis and ensure payment of proper royalty by the trading licencees to State Government. The whole operation will become open and transparent, the finder will get a better price, the Government will get higher royalty and also substantial licence fees from the trading licencees, Local lapidary units would also be able to purchase their requirement from the trading licencees which they are not able to do at present due to prevailing clandestine operations. At any time Government can part with a certain percentage/amount collected by them from licence fees/and royalty in favour of OMC, their agent, through budgetary mechanism.

9.4 As already mentioned, trading license for all minerals are granted by the competent Authority under Section 6 of the Orissa Minerals (Prevention of Theft, Smuggling and Unlawful Activities) Act, 1989. Rules have been framed for such purpose under Section 37 of this Act. To facilitate the arrangement mentioned above, the rules will be suitably amended to provide for appropriate trading license for gemstones to lessees and other selected persons for procurement and disposal of gemstones from any non-leasehold areas under the following terms and conditions : (a) Payment of an annual licence fee of Rs. 1 lakh; (b) Security deposit of Rs. 1 lakh from each license (in shape of pledged certificate etc. interest on which will accrue to the licensee but in the event of forfeiture to the State). (c) A licence should satisfy the following conditions : (i) he should be lessee in respect of a gemstone bearing areas; (ii) if he is non-lessee, he should have good financial standing with appropriate registration under Sales Tax/Income Tax Act. Among non-lessees, preference will be given to those who have gem processing units in the State or give a definite commitment for setting up such units inside the State within a period of 5 years.

9.5 Conditions Licence - (a) The licence will be granted initially for a period of one year which is renewable annually. For each renewal, the licensee would have to pay a licence fee of Rs. 1 lakh. Renewal can be made on satisfactory performance in terms of the provisions of Acts and Rules. (b) The licence would pay royalty on the gemstones sold to him from different sources on the basis of the sale price determined as per rules. The assessing authority will verify the sale price from

time to time to ensure that appropriate royalty is realised by Government Subject to payment of royalty, the licensee can dispose of the stock in any manner he likes.

10. Royalty.

- 10.1. Prior to the 11th April 1997, royalty on gemstones paid to State Government was calculated on the basis of sale price at pit's mouth as per the Second Schedule of the MM (RD) Act, 1957. This Act does not define the manner in which such sale price at pit's mouth is to be determined. State Government can formulate the modalities for fixation of this price. There are three ways in which it can be assessed. (a) by auction; (b) valuation by a group of experts including Government approved valuer, and (c) on pre-determined value. 10.2 The Committee has suggested that the Joint Venture partner/ lessees may not agree to dispose of and Government cannot force them for sale the gemstone produced/purchase by them through open auction. On the other hand, valuation by a Group of Experts as envisaged in 1994 Policy encountered several difficulties particularly in respect of reasonableness of the valuation of the material and delay in valuation. In all fairness of things, valuation should be transparent. But gemstone trading does not lend itself to the type of transparency consistent with public service accountability. Besides, it may not be practical and economically feasible to form a large number of Valuation Committee to value the gemstone on day to day basis for a large number of lessees and trading licence through out the State. 10.3 The said Committee has, therefore, suggested to assess advance royalty "on-determined pit mouth value basis" and appointed a Sub-committee consisting of Director, Mines and Director, Geology GM (Geology) OMC and one Deputy Director, Geology to suggest the "pit's mouth value" of different grades of various gemstones. The Sub-Committee's recommendations which have been accepted by the State Government for the valuation of different grades of various gemstones taking into account the sale price of gemstones, auctioned in the past by OMC suggested price of GSI and information on this collected from different Gem Trading Agencies are at Annexure-I. 10.4 A Lessees/Trading Licence will be allowed to dispose of his gemstones in the normal of business. He will pay advance royalty at the rate prescribed by Government of India on the basis of self-assessment at the rate of "pre-determined pit's mouth value" indicated in Annexure-I. The advance royalty will be adjusted when the ultimate sale price is determined under the guideline issued by Government of India/State Government. This kind of advance royalty discipline needs to be enforced since, at present, most of the gemstones are sold outside and State and it might take considerable time and effort to reach a conclusion regarding the sale price on the basis of which royalty would be recovered from the parties. The Government will not put any hindrance in the free movement of goods but can make periodic checks. The pit's mouth value indicated in Annexure-I would be reviewed after a year by a Committee.

11.

The new Gemstone Policy, 1998 enumerated above is expected to have the following advantage : (i) Opening up of the gemstone tracts will ensure large scale scientific exploitation of resources resulting in higher employment and royalty. (ii) The lesses would be able to gradually set up lapidary units inside the State for value addition and other local lapidary units would be able to procure raw material from the lessees as well as the trading licencees. All these would help create greater

employment and generate higher revenue through sales tax etc. on value added products.(iii)Introduction of trading licence will encourage entrepreneurs/business to carry out free trade in Gemstone and stop clandestine activities and smuggling Competition by many trading licencees to purchase from finder will ensure reasonable price to this latter. Besides, considerably higher trading licence fee will add to the Government income in addition to royalty from the licencees.(iv)This policy will bring about transparency and openness to exploitation of gemstone resources in the state while augmenting employment and State resources.

12.

The Gemstone Policy of Orissa 1998 will come into effect from the date of issue of the Notification. Annexure-I

Sl. No.	Name of the Gemstone	Colour/other characters	Price range per gram in Rupees	
(1)	(2)	(3)	(4)	
1.	Ruby (I grade)	Purplish red/flawless transparent	More than 1 caret	6,000
	Less than 1 caret			
2.	Ruby (II grade)	Purplish red with slight flaw and less transparency.		25
3.	Ruby/Corundum (III grade)	Purplish to reddish, translucent to opaque.		2
4.	Sapphire (I grade)	Dark blue to blue, transparent flawless.	More than 1 caret	6,000
	Less than 1 caret			
5.	Sapphire (II grade)	Dark blue to bluish, Violet blue with slight flaw and less transparency.		25
6.	Sapphire/Corundum (III grade)	Bluish, translucent opaque		2
7.	Alexandrite (I grade)	Clean, transparent with sharp colour change from green to violet/red.		1,000
8.	Alexandrite (I grade)	Semi transparent to translucent with less flaw, colour change from green to violet/red.		500
9.	Emerald (I grade)	Dark green transparent, Flawless.		5,000
10.	Emerald (II grade)	Dark green to light green with less		500

		transparency and flaw.		
11.	Green beryl (III grade)	Dark green to light green, translucent to opaque.		50
12.	Aquamarine (I grade)	Bluish to sea green transparent, without flaw.	More than 10 grams	400
13.	Aquamarine (II grade)	Bluish to greenish and lighter shades, semitransparent.		50
14.	Aquamarine (III grade)	Fractured		2
15.	Chrysoberyl, Cat's eye (I grade)	Yellowish green, transparent with chatyancy, eye effect.		150
16.	Chrysoberyl (II grade)	Yellowish green, transparent to semi-transparent.		150
17.	Chrysoberyl (III grade)	Greyish, greenish, transparent to semitransparent.		4
18.	Rhodolite Garnet	Reddish-purple, transparent without flaw.	More than 2 gms.	10
19.	Garnet	Red, transparent without flaw	1gms.	0.50
20.	Garnet	Pink		3
21.	Garnet	Pinkishred		1.50
22.	Garnet	Honey yellow to yellow brown	Big size	5
	Small size			2
23.	Topaz	Coloured, Clean	More than 2 gms.	1.50
24.	Topaz	Coloured fractured		1
25.	Topaz	Colourless fractured		0.10
26.	Others			0.10
27.	Iolite	Blue, transparent flawless	More than 5 gms	6
28.	Iilite	Fractured		0.10
29.	Silimanite, Cat's eye (Fibrolite)	Grey with cat's eye effect aboshon grade.		2
30.	Moon stone (I grade)	Milky fairly transparent with chatoyancy.		0.50
31.	Moon stone (II grade)	Milky, translucent to opaque with/without chatyancy.		0.50
32.	Amethyst	Violet		0.50
33.	Apatite	Blue, greenish, blue transparent		0.50
34.	Tourmaline	Blue, green, transparent flawless		10
35.	Citrine	Yellow, transparent flawless		0.50

36.	Smoky quartz	Grey, flawless	0.50
37.	Rock crystal (quartz crystal)	Colourless, transparent flawless	0.10

N.B. : The rate of Gemstone will increase of weight and size.