

Jharkhand District Mineral Foundation (Trust) Rules, 2016

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Rule

JHARKHAND-DISTRICT-MINERAL-FOUNDATION-TRUST-RULES-2016 of 2016

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Jharkhand District Mineral Foundation (Trust) Rules, 2016 Published vide Notification No. Kha. Ni. (Vividh)-76/2015-804/M, Ranchi, dated 21.3.2016 No. Kha. Ni. (Vividh)-76/2015-804/M, Ranchi, dated-21.03.2016. - In exercise of the powers conferred by Section 15(4) and Section 15A of the Mines and Minerals (Development and Regulation) Act, 1957 (as amended in 2015), the Government of Jharkhand hereby makes the following rules:-

1. Short title and commencement.

(1) These rules may be called the Jharkhand District Mineral Foundation (Trust) Rules, 2016. (2) They shall be deemed to have come into force on the 12th day of January, 2015, the day MM(DR) Act 1957 stood amended vide act No. 10 of 2015 dated 26.03.2015 and published vide No. 13, Extra ordinary Gazette of India, New Delhi, Friday March 27, 2015.

2. Application.

(1) These rules shall extend to the whole of the state of Jharkhand, and No. 218 (2) They shall apply to all minerals, as defined in schedule - I/Part A, Part - B, Part - C and fourth Schedule as specified under the Mines and Minerals (Development and Regulation) Act, 1957 (as amended in 2015) and any other minerals which the Central Government may by notification in the Official Gazette notify.

3. Definitions.

(1) "Act" means the Mines and Minerals (Development and Regulation) Act, 1957 (as amended in

2015);

1. "Affected areas" :-

(a) Directly affected areas- a. Village and gram panchayat within which mines are situated. b. 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. c. 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. The following shall include as directly "affected person"

1. As defined under Section 3(C) of right to fair compensation and transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. "Displaced family" as defined under Section 3(K) of right to fair compensation and transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. Any other as appropriately identified by the concerned gram sabha.

b. Persons affected by mining should include people which 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. (3) "beneficiaries" mean the affected persons as identified by the Management Committee (4) "District Mineral Foundation" means a statutory trust established as a non-profit body by the Government in all districts affected by mining or mining related operations, in accordance with Section 9B of the Act; (5) "Government" means Government of Jharkhand; (6) "Gram Panchayat" means an institution of self-government for the rural areas as defined under Article 243(d) and 243B of the Constitution of India; (7) "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level as defined under Article 243(b) of the Constitution of India; (8) "Rules" means the Jharkhand District Mineral Foundation (Trust) Rules, 2016; (9) "Trust" means the District Mineral Foundation, which is a statutory trust as notified by the Government of Jharkhand to be governed by its own rules and regulations so notified under these Rules. (10) "PMKKKY" , Means Pradhan Mantri Khanij Kshetra Kalyan Yojana

4. Objective of the Trust.

- As defined in District Mineral Foundation (DMF) Trust vide notification no. 2435/M dated 24.11.2015

5. Composition and management of the Trust; As per DMF Trust vide notification

no. 2435/M dated 24.11.2015

6. Power and functions of the trust.

- Besides the power conferred upon the trustees under clause 7 and clause 10, the managing committee shall also be responsible for Collection of Funds from lessees/licence/permit holders/auctioneer in the manner prescribed below. Collection of contribution to DMF fund:-

1. (i) Ten per cent of the royalty paid in terms of the second schedule to the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) (herein referred to as the said Act) in respect of mining leases or, as the case may be, prospecting licence-cum-mining lease granted on or after 12th January, 2015 ; and

(ii)Thirty per cent of the royalty paid in terms of the second schedule to the said Act in respect of mining lease granted before 12th January, 2015. [as contained in Ministry of Coal, notification new Delhi, the 17th September, 2015, G.S.R. 715(E)](iii)Every holder of a mining lease or a prospecting licence-cum-Mining lease in respect of coal and lignite and sand for stowing shall, in addition to the royalty paid to the District Mineral Foundation of the district in which the mining operation are carried, an amount at the rate of a. Ten per cent of the royalty paid in terms of the second schedule to the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) (Herein referred to as the said Act) in respect of mining lease or, as the case may be, prospecting licence-cum-mining lease granted on or after 12th January, 2015 and b. Thirty percent of the royalty paid in terms of the Second Scheduled to the said Act in respect of mining lease granted before 12th January, 2015. [as contained in Ministry of Coal, notification new Delhi, the 20th October, 2015, G.S.R. 792(E)]

2. The managing committee shall appoint a treasurer from the members of the managing committee whose tenure shall be coterminus with his/her membership in the managing committee

3. Mode of Payment of contribution. - By way of Bank draft at the rate specified in this rule, drawn in favour of DMF Trust, (Name of District), payable at (name of the District).

(4)The Managing Committee shall be responsible for -(a)Coordinating, consolidating and developing the annual plan of the Trust as per the provisions laid in the guidelines of Pradhan Mantri Khanij Kshetra Kalyan Yojna (PMKKKY).(b)Approving the lists of work under Priority and other priority areas beneficiaries as identified by the committee;(c)Distributing monetary benefits through bank transfer to the beneficiaries under extreme cases on approval of the Governing Council.Explanation. - Families displaced by very old mines and resettled in a different village, as identified under Rule 12(3)(c)(ii), shall not be considered as beneficiary. For the purpose of this sub-rule, for distributing monetary benefits priorities shall be given to those living below poverty line, orphans, widows, single mothers, physically challenged persons, senior citizens, etc.(d)Undertaking such other activities as are in furtherance of the objective of the Trust, and as per the provisions laid in the guidelines of PMKKKY.(e)Appointing officers to run the Trust and auditors; however, these appointments shall require ratification by the Governing Council;(f)Organising meetings of the Trust;(g)Presenting audit reports for ratification to the Governing Council.

7. Meetings of the Trust.

- The meetings of the trust (Governing Council and managing committee) shall be held as laid in clause 8 and clause 10 of the DMF trust deed.

8. Power and functions of the Gram Sabha in affected areas.

(1)The Gram Sabha in consultation with the Mukhiya/Upmukhiya shall identify work to be carried out under priority and other priority area according to the following process -(a)Prepare a list of activities and maintain a register containing relevant details of them;(b)Upon verifying the prospective activities the Gram Sabha shall pass a resolution and forward the same to the Managing Committee. The Managing Committee can verify but not override the activities to be carried upon. If the Managing Committee has any objection to the list as submitted, it shall send it back to the Gram Sabha with appropriate reasons and specific comments in writing. However, once a revised list is forwarded to the Managing Committee by the Gram Sabha addressing the concerns, it shall be approved and passed by the Managing Committee and forwarded to the Governing Council for approval.(c)The quorum of the Gram Sabha meeting where a resolution will be passed, shall not be less than 50 percent of all members of such Gram Sabha, and shall include members belonging to the Scheduled Castes, Scheduled Tribes, Other Backward Classes and women in general proportion to their population. At least one-third of the members present must be women;(d)The quorum of the Gram Sabha to pass any resolution with respect to identifying the activities would require the presence of at least 50 per cent of the representatives of the said village. The resolution shall be passed by a simple majority.(2)The Gram Sabha in consultation with the Mukhiya/Up- Mukhiya shall be responsible for identification of developmental schemes/works for the village that may be supported by the Trust Fund formulation of criteria for fixing their priorities, and developing an annual plan as described under Rule 9.(3)The Gram Sabha shall be responsible for the monitoring of the developmental schemes/works supported by the Trust Fund.

9. Development of annual plan.

(1)The Trust shall develop an annual plan which shall be operational for one financial year.(2)The annual plan of the Trust shall include the type and quantum of developmental schemes/as per the provisions laid in the guidelines of PMKKKY for which the Trust Fund shall be used. Such developmental schemes/works shall be implemented within a defined time frame for the benefits of affected areas and affected persons therein.(3)The fund allocation for various developmental schemes/works shall be as provided in the guidelines of PMKKKY.(4)The process of developing the annual plan shall strictly adhere to the principles of bottom-up approach, involving the Gram Sabhas of affected areas in consultation with the Mukhiya/Up-Mukhiya. The Governing Council and the Managing Committee shall be involved in respective capacities as provided under these Rules.(5)The Trust shall commence the annual planning process at the beginning of the fourth financial quarter every year, for the developmental schemes/works to be executed in the following financial year.(6)The Managing Committee at the beginning of the fourth financial quarter, shall inform respective Gram Sabhas of affected areas about the funds available (provisional) for the year. Funds/works shall be allocated for the activities for each Gram Sabha in such manner that it is proportionate to its population.(7)In accordance with the funds provisionally earmarked, each Gram Sabha shall prepare an annual plan for the deployment of such funds for various developmental schemes/works.(8)The Trust shall take initiatives for training and capacity building of Gram Sabhas of affected areas for preparation of such plans at the beginning of planning process.(9)The developmental schemes/works for which the funds shall be used shall be identified in a manner enumerated in PMKKKY. Every identified developmental scheme/work shall also have a verifiable and time bound outcome component.(10)The Gram Sabhas in consultation with the Mukhiya/Up-Mukhiya shall submit their respective annual plans to the Managing Committee by the middle of the fourth financial quarter. The Managing Committee shall consolidate all the annual plans received from Gram Sabhas of affected areas and prepare a consolidated annual plan for the Trust by the end of fourth financial quarter of the year.(11)The annual plan of the Trust shall include a compendium of such plans submitted by Gram Sabhas of affected areas besides other planned activities of the Trust for the financial year. The consolidated annual plan of the Trust shall also be guided by the provisions laid in PMKKKY for allocating the Trust Fund to various Gram Sabhas.(12)The annual plan of the Trust shall be finalized by the Managing Committee in consultation with the Planning Committee of the Governing Council by the end of the fourth financial quarter and submitted to the Governing Council. The Governing Council shall review and pass the annual plan unanimously as provided under Clause 7 of the DMF Trust Deed.

10. Trust Fund.

(1)The trust fund shall comprise the funds received from lessees/licence/permit holders/auctionee of major and minor minerals as laid in clause 12 of the DMF Trust Deed and Rule - 6 of DMF Rule.(2)The Government may give financial assistance to DMF Trust by way of loan, capital grants or other payments.

11. Operation of the Trust Fund.

(1)The Trust Fund shall be kept in one or more scheduled commercial Nationalized Banks through bank account(s) in the name of the Trust and all such account(s) shall be operated under the joint signatures of member secretary and treasurer of the Managing Committee (Trust).(2)The Trust shall maintain the books of accounts of this Fund.

12. Expenditure from the Trust Fund.

- The expenditure from this fund shall be made in accordance with the provision laid in clause 14 of the DMF Trust Deed and as per the provisions given in PMKKKY.

13. Accounts and audits.

- The accounts and audits of the trust contribution and expenditure shall be done as laid in clause 16 of DMF Trust deed.

14. Penalty and recovery of contribution to Trust Fund.

(1)The licensee shall make the required payment to the Trust in the same frequency as the licensee is required to pay royalty to the Government.(2)In case the licensee fails to make the required payment to the Trust on time, then following shall apply -(3)(a)in addition to the principal amount so payable, a 12 per cent interest shall incur to the licensee from first date of the default, which the licensee will be required to pay for the following three months to the Trust as applicable;(b)In case the licensee continues to default after the expiry of the stipulated three month period, then in addition to the principal amount so payable, a 20 per cent interest shall incur to the licensee for the next three months;(c)In case of failure to make the required payment after six months from the date the licensee first started to default on the payment, the Government shall initiate appropriate legal proceedings against the licensee;(d)In case the licensee does not make the required payment for one year, the mining licence shall be recommended for suspension to appropriate authority.(4)In case any member of the Trust is found to steal, purloin or embezzle any money or other property whereby the Trust Fund may be exposed to loss, shall be subject to the same prosecution as any person, not a member, would be subject and liable to in respect of the like offence.

15. Review clause.

- The Government shall review and revise the provisions declared under such Rules every ten years, to remain effective to uphold the "objectives" of the Trust. Annexure - I First Schedule Guidelines of PMKKKY published vide No. 16/7/2015-M.VI (Part) Government of India, Ministry of Mines, New Delhi Shastri Bhawan Dated 16th September 2015 Government of India vide letter dated 16.09.2015 has stated that DMF shall be deemed to have come into existence with effect from 12th of January, 2015. Ministry of Mine has given a direction to include minimum provision for the social and infrastructure needs of the population and area and keeping this in mind has framed Pradhan

Mantri Khanij Kshetra Kalyan Yojna(PMKKKY) and under the provisions laid in section 20A has directed to incorporate PMKKKY into the rules framed for DMF Under this Yojna the rules to be made shall have the following provisions.

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

(1)Affected areaa) Directly affected areasa. Village and gram panchayat within which mines are situated.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 peoplea. 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 PMKKKYThe 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 the 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 Guidelines. - a. 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 required (a) 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.