

*mm&P*  
*mines, minerals & PEOPLE*

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This written representation is in relation to the draft rules "The Gujarat Minor Mineral Concession Rules, 2016" prepared by The Industries and Mines Department, Government of Gujarat. We are submitting this brief written memorandum of comments and suggestions on the draft rules.

About mm&P

mm&P (mines, minerals & PEOPLE) is a growing alliance of individuals, institutions and communities who are concerned and affected by mining. The isolated struggles of different groups have led us to form broad national alliance for combating the destructive nature of mining. mm&P network is present in 16 states across the country. Our comments / suggestions are enlisted below -

- The PESA Act of 1997 and the Supreme Court Judgment in the case between Orissa Mining Corporation Ltd. Vs Ministry of Environment and Forest and others have upheld the rights of tribal communities and affirmed the importance of free prior consent of the affected community for any mining lease. We suggest that the rules should explicitly state that without free prior consent of the affected community the proposed mining lease will not be approved.
- The draft rules comprehensively states the technicalities of proposing and subsequently mining minor minerals. But it does not detail the social implications or procedures to be followed nor recognizes the rights of individuals or communities over land. As per the Supreme Court Judgment in the case of Thressiamma Jacob & Ors Vs Geologist, Department of Mining Kerala; the owner of the land is the owner of the mineral and without the consent of the land holder mining lease should not be approved.
- Rule 6 (3(d)) on page 7-8 is contrary to the Samata Judgment where the lease should only be granted to an individual or cooperative belonging to tribal community. We suggest modifying this rule to involve tribal individual or tribal cooperatives to be eligible for granting lease.

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- Rule 21 (e) states no mining operations in certain areas...transportation infrastructure is mentioned but there is no mention of villages or habitations which are very vulnerable to blasting or quarrying operations. Mining should not be allowed within 1 KM of any village or habitation.
- Rule 21 (m) To submit progress reports...The rule does not specify any time period for submitting the reports. It should be clearly stated the duration for each report for eg. 6 months
- Rule 31 Removal from agriculture lands...this rule can be misused since it is quite vague on the process for conversion of land use from sustainable (agriculture) to unsustainable (mining). Further after mining the land would be degraded and would not support agriculture. In the spirit of sustainable development land use conversion from agriculture to mining should be avoided.
- Rule 83 Employment of Qualified Officers...Preference should be given to individuals from the local community. Unless clearly mentioned, mining would not translate to any economic development of individuals or families.
- Rule 86 Environment Impact Mitigating Measures...strict compliance to the measures should be followed. In case of violation or non adherence it should entail penalty which could be cancellation of lease etc.
- There is no mention of Grievance Redressal mechanism in case of violation of human rights, rights over land and illegal mining.
- There draft rules has been found to over look social impacts of mining. It is our earnest request to have a detailed set of rules in place for dealing with social aspects of mining.

These are some of the comments and suggestions from mm&P. We would also request a meeting with the stakeholders for better framing of the rules.

Rebbapragada Ravi  
mm&P Chairperson

Ashok Shrimali  
mm&P Secretary General