

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA No. 362/2022

IN THE MATTER OF:

Aravalli Bachao Citizens Movement

.....Applicant

Versus


Union of India & Ors

.....Respondents

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Place: Panchkula
Dated:28.11.2022


DEPONENT
MUKUL KUMAR (IAS),
DIRECTOR MINES AND GEOLOGY,
Haryana

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ADDITIONAL AFFIDAVIT OF MUKUL KUMAR (IAS),
DIRECTOR MINES AND GEOLOGY, DEPARTMENT OF
HARYANA IN COMPLIANCE OF ORDER DATED
10.10.2022.

RESPECTFULLY SHOWETH:

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I, the above named Deponent, do hereby solemnly
affirm and declare as under:-

1. That this Hon'ble Tribunal while considering
allegations of illegal mining in Aravali Hills
Area of District Faridabad, Gurugram and Nuh of
State of Haryana passed the order dated
23.05.2022 seeking report from the Joint
Committee about certain sites mentioned in the
original application and report on certain
points from the Department of Mines & Geology
and the Director General of Police. It is
further submitted that after considering the
report of Joint Committee and respective

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affidavits filed on behalf of deponent and the Director General of Police, Haryana this Hon'ble Tribunal passed the Order dated 10.10.2022.

2. That vide order dated 10.10.2022, this Hon'ble Tribunal passed several directions to be complied with by respective departments/state authorities including the deponent. The directive portion of the order pertaining to the deponent and Department of Mines & Geology, Haryana is reproduced below:

"16. In view of the above referred deficiencies, we are constrained to direct the DGP, Haryana and Director, Mining and Geology to file detailed reports giving information by way of statements in the tabular form as to the aspects mentioned below:-

(a) Statement regarding all complaints received by the Police (i) date of receipt of complaint, (ii) name of the complainant, (iii) particulars of FIRs registered, (iv) final report filed and (v) order passed by the Court;

(b) Statement regarding complaints received by the Police from the Mining Department (i)



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date of receipt of complaint, (ii) action taken on complaint by the Police and (iii) information given to the Mining Department.

(c) Statement regarding complaints received by the Mining Department from the Police (i) date of receipt of complaint, (ii) action taken on complaint by the Mining Department and (iii) information given to the Police.

24. In view of precautionary principle and subject to orders of Hon'ble Supreme Court, it is directed that no STP be issued for mining of ordinary earth/clay in the Aravalli Hills in Faridabad, Gurugram and Nuh till further orders to the contrary."



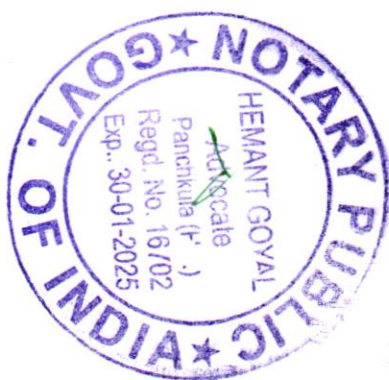
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3. That it is humbly submitted that information sought vide point no.(a)and(b)of the para no 16 of the order dated 10.10.2022 pertain to the Police Department and same is being submitted separately by the office of Director General of Police, Haryana. In reference to point no.(c) of said para, it is submitted that as per record, no complaint has been received by the Mining Department from the police. In fact, on finding instance of illegal mining by the Police Department, action is being taken by them in coordination with the officials of the

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Mining Department as per circumstances prevalent on the spot.

4. That in view of the observations of this Hon'ble Tribunal passed in Para No. 11 and 12 of order dated 10.10.2022, record of both departments (Police and Mines and Geology) were conciliated and it was found that number of complaints submitted by the Police Department includes the complaints received from all the sources i.e. Mining Department, Forest Department, by Public and some complaints by police department itself on the basis of its own search and regulatory mechanism. However, number of complaints submitted on behalf of Mining Department were the complaints made/submitted by the mining Department to the Police Department only. Besides this, some of FIRs were not updated in the record of Department of Mines & Geology due to communication gap. However, said data has now been conciliated between these two departments including the 44 number of complaints sent back to Department of Mines & Geology. It is most respectfully submitted that in 9 cases out of these 44 complaints, action under the provisions of Mines and Minerals (Development



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and Regulation) Act, 1957 has been initiated before the Concerned Court and same is under progress to be initiated in remaining 35 cases.

5. That in reference to directions issued in para no.24 of the order dated 10.10.2022, it is humbly submitted that no Short Term Permit was issued w.r.t mining of ordinary clay/earth from Aravali hill area. Two Short Term Permits vide no. 3957 and 3844 were issued by the concerned Mining Officer in respect of the private, unlevelled agriculture land that too for domestic use of ordinary clay and not for commercial use. It is pertinent to mention here that above said permits were not in the region of Aravali.



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Moreover, as per rule 6(2)(iv), rule 31 and rule 32 of State Mining Rules, 2012 excavation of ordinary clay as well as the mineral excavated during the developmental activities falls under exempted category. For the sake of brevity, the above said rules along with procedure is reproduced below:-

Rule 6. Exemptions in certain cases.

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(2)**(iv) excavation of brick earth or ordinary clay upto a depth of one and half meters from the adjoining ground level:

Provided that brick earth or ordinary clay so excavated shall be disposed off or consumed only after obtaining permit from the Director or any officer authorized by him and on payment of royalty as per First Scheduled and application fee as mentioned in Rule 35.

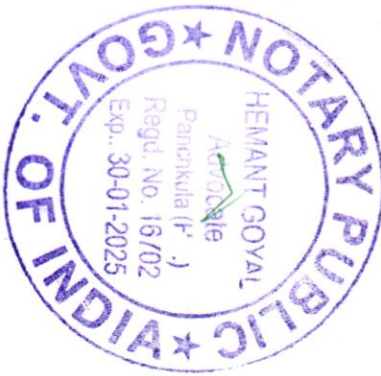
Rule 31. Permits for extraction of ordinary clay/ earth.

(1) Save in the cases covered under sub-rule (2) of rule 30, the Director or an officer authorized by him in this behalf may grant permit for lifting of ordinary earth from an area not already granted on any mineral concession to the landowner or the person having consent of the landowner on submission of an application;

(2) The permit for extraction of ordinary earth shall be granted only up to a maximum depth of five feet measured from the natural ground level of said area;

Rule 32. Grant of permits for disposal of mineral encountered in the process of construction of buildings/ structures/ development projects.

(1) Where any mineral is encountered in the process of construction of any building or a development project and has to be extracted in the process of execution of such project, such person may be granted a permit to either use such mineral for self-consumption or for its



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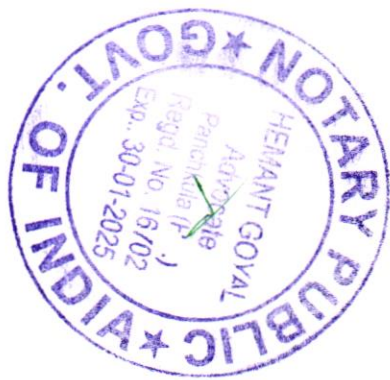
disposal outside the project area on payment of the applicable royalty and other charges to the government for the quantity so excavated and consumed or disposed off;

Copy of relevant pages of State Mining Rules, 2012 with contents of Rule 6, 30, 31 and 32 are annexed herewith as **Annexure-R/1**.

The Permit/Short Term Permit is being issued strictly as per these Rules only.

Action Plan to Curb the illegal Mining:

6. That in view of the reported incidences of illegal mining and in line with the provisions of Haryana Minor Mineral Concession, Stocking, Transportation of the Minerals and Prevention of Illegal Mining Rules, 2012, hereinafter referred as State Rules, 2012 as contained in Chapter 16, it has been decided that a Standard Operating Procedure (SOP) may be framed for the guidance of all stake holders involved in prevention of illegal mining in Haryana. The direction in this regard has already been issued to all the field offices vide letter dated 22.08.2022. The Standard operating procedure contains various actions to be taken by various authorities both at the District level as well as State level.



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Broadly, the SOP for Illegal mining has been grouped into following four categories in consonance with the provisions of State Rules, 2012: -

1. Identification and protection of areas most susceptible to illegal mining activities
2. Checking of illegal mining on complaint/information
3. Vehicles carrying mining material without a valid permit.
4. Mineral concession holders carrying out illegal mining in violation of the approved mining plan/terms and conditions of Environment Clearance (EC).



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Identification and protection of areas most susceptible to illegal mining activities

- i. The District Level Task Force shall identify areas which are prone to illegal mining in their District. Deputy Commissioner shall constitute a Committee of officers to visit such areas twice in a month. The inspecting team shall carry out videography of the area during inspection. The Deputy Commissioner may order for use of Drones to detect illegal mining in the District. The funds for the said purpose may be utilized from the District Mineral Foundation Fund.
- ii. If any person is found indulging in illegal mining using any tool/machinery/equipment/vehicle, the

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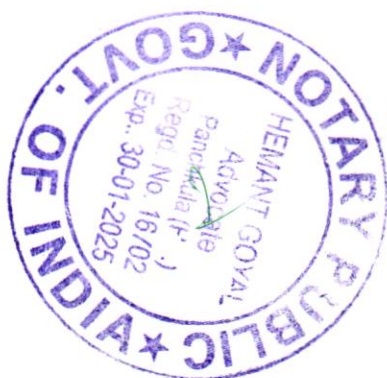
inspecting official team is directed to proceed as per the State Rules 2012 i.e. seizing of the tool and vehicle and lodging of an FIR in the Police Station without any delay. The name of the owner of the land, if it is a private person, must be included in the FIR.

iii. Survey and proper demarcation shall be done and a signboard shall be placed prohibiting any kind of Mining in the area. If need be, pillar at suitable distance along the periphery of the demarcated area shall be set up. The expenditure shall be borne from the District Mineral Foundation in this regard.

iv. In case of repeated sightings/incidences of illegal mining in a particular area, the Deputy Commissioner may promulgate Section 144 under Cr.P.C.

v. The Deputy Commissioner shall order for erection of 24X7 check posts NAKAS on roads paths leading to such illegal mining affected areas to check illegal mining vehicles/equipment. The Check posts should be manned by a team comprising of officers of different departments. It must include a representative of Mining Department.

vi. The District Level Task Force shall use the App to be developed by HARSAC for receiving information/complaints regarding illegal mining.



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- vii. The Deputy Commissioner shall also constitute special flying squads to carry out surprise inspection /checking of such Areas affected by illegal mining. The surprise inspection must be carried out at least once in a week.

2 Checking of illegal mining on complaint/information

- i. Whenever any complaint/incidence of illegal mining by any person/Entity is reported in any area outside the auction area/contract area in the District, cognizance shall be taken immediately by any authorized official of the Department whose head is member of the District Level Task Force (DLTF). It shall be the duty of the said officer to report the matter to the head of the Department who shall bring it to the knowledge of the Chairman of the District Task Force i.e. Deputy Commissioner of the concerned District and the Member Secretary of the Task Force i.e. Mining officer of the concerned District immediately upon the receipt of the said information in writing preferably within 24 hours of the incident.
- ii. The Deputy Commissioner shall immediately constitute and authorize a Committee of at least 3 officials consisting of at least one member from the Mining Department and one from the Police Department to inspect the said area.
- iii. If the said land falls in the forest area, then representative from the Forest



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Department and Revenue Department shall also be part of the said inspection Committee.

- iv. The inspecting team shall carry out videography of the area during inspection after receipt of complaint. The Deputy Commissioner may order for use of Drones if it appears that the complaint is genuine and illegal mining has actually been done. The funds for the said purpose may be utilized from the District Mineral Foundation Fund.
- v. If any person is actually found indulging in illegal mining using any tool/machinery/equipment/vehicle, the inspecting official team shall proceed as per the State Rules 2012 i.e. seizing of the tool and vehicle and lodging of an FIR in the Police Station without any delay.
- vi. The member secretary i.e. the concerned mining officer shall ensure that F.I.R and other actions as per the state Rules 2012 are taken immediately under the overall direction and guidance of the chairman DLTF.



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3. Vehicles carrying mining material without a valid permit.

- (i) All the Mineral Dealer License holder/Stockiest/Screening Plants shall submit proof of original purchase bills along with the list of vehicles on asking by the officer authorized by the Department of Mines and Geology.
- (ii) No mineral concession holder/contractor shall sell mining material to any purchaser without any bill/e-Rawana and

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shall allow only GPS fitted vehicles to carry such mining material from the contract area/stock of the mineral concession holder.

(iii) Every holder of a mining lease and/or license shall issue the duplicate and triplicate copies of the E-transit pass/E-Rawana slip to the in charge of the carrier transporting mineral from the mines/depot and the original copy shall be kept in the book.

(iv) The mineral concession holder shall keep a record of all such vehicles (Number, Copy of RC., Name of Driver, Mobile No.) intended for carrying mining material on a daily basis.



(v) Only vehicles entered in E-rawaana shall be used by the purchaser for transportation of mineral from the mineral concession holder of Haryana.

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(vi) The mineral concession holder shall ensure Nakas (24X7) on the approach road to the mining contract area and install CCTV to capture the vehicle number details carrying mining material.

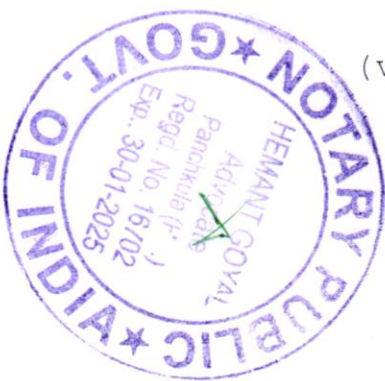
(i) The Deputy Commissioner shall constitute and authorize a team of officials to inspect such nakas on a regular basis.

(ii) Any vehicle carrying mining material without a valid permit/e-Rawana shall be seized and further action be taken as per State Rules, 2012.

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(iii) The District Level Task Force (DLTF) shall constitute inter departmental teams to man the check post/barriers at inter-state entry or at any other point to check illegal transportation of minerals.

(iv) All dispatch of minerals by holder of mining lease, mining permit or prospecting license by a carrier shall be accompanied with an E-transit pass/ E-Rawaana in duplicate. The person in charge of the carrier shall produce the transit pass at the check post for the purpose, or on demand by any officer, authorized by the State Government by notification in the Official Gazette.



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(v) Where there is a check post or check post-cum-weighbridge(s) of the department every carrier will normally pass through this. The lessee or plant or factory using the mineral may be asked to have their own weighbridge at their own cost and they will issue transit pass along with weighment slip of weighbridge.

(vi) All the carriers shall carry two copies of the E-transit pass/E-Rawaana (duplicate and triplicate) and shall stop at the check post/weighbridge where the quantity and quality of the mineral will be verified by the Government checking staff and proceed after being cleared by the check post clerk by making necessary endorsement(s) in the triplicate copy held by the in charge of the carrier. The duplicate copy shall be handed over to the

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check-gate clerk who will keep it for office record.

(vii) The Government checking staff in charge of check post and/or weighbridge may verify the quantity and quality of the mineral carried and shall return one copy of the transit pass/permit. They shall also correlate it with the API of E-Rawaana. They shall record in both copies of the pass/permit any observation relating to the discrepancy between the quantity and quality of mineral carried and that shown in the pass/ permit. They shall bring to the notice of the Mining Officer any case of repeated discrepancies in respect of any mine owner/licensee.

(viii) The person in charge of the carrier shall, if so required by the authorized officer, furnish all relevant information regarding consigner, consignee and minerals.

(ix) After checking the mineral and the carrier, the officer in charge of the check post or weighbridge or any other authorized officer shall put his signature and designation with date and time on the transit pass.

(x) If the officer in charge of check post or weighbridge or any other authorized officer has reasons to believe that the mineral is not covered by the transit pass or the transportation is at variance with E-Rawaana, such officer shall detain the



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vehicle. Then the officer in charge of check post or weighbridge or any other authorized officer shall seize the mineral(s), vehicle(s), tool(s), equipment(s) or any other thing(s) used in transport of minerals. The seized mineral(s), vehicle(s), tool(s), equipment(s) or any other thing(s) shall be liable to be confiscated by an order of the court competent to take cognizance of the offence and shall be disposed of in accordance with the direction of the Court.

(xi) In the case of mineral being imported from other States where E-Rawana is not in vogue, it shall be ensured that the transporter is having valid documents of the mineral being transported which shall be got verified by the concerned authority of that district/State.

(xii) The mobile teams constituted by the DC concerned shall also impound the vehicles involved in the transportation of illegal mineral and lodge FIRs with the nearest Police station.

(xiii) The cases of illegal transportation of mineral shall be brought to the knowledge of the Chairman of the District Level Task Force i.e. Deputy Commissioner of the concerned District and the Member Secretary of the Task Force i.e. Mining officer of the concerned District immediately.



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(xiv) A monthly return shall be submitted to the Directorate of Mines and Geology by the concerned Mining officer to the DLTF and Director Mines & Geology giving details of the impounded vehicles and penalty realized there from.

4. Mineral concession holders carrying out mining in violation of the approved mining plan/EC

i. It shall be the duty of the Mining officer of the district to inspect himself or through any official of the Mining Department the contract area awarded to the Mineral Concession holder at least once in a fortnight and submit report to the Deputy Commissioner of the concerned district and to the Director Mines and Geology. During inspection, videography of the area shall be carried out and photographic evidence of violations shall also be taken.

ii. The report shall contain violations of approved mining plan/ terms and conditions of EC in detail. Help of HARSAC may also be taken in ascertaining the exact violations.



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iii. In case of violation, the Mining officer or Director, Mines and Geology shall issue show cause notice to the mining contractor and take further action as per the State Rules, 2012.

iv. Penalty for violation/ excess production shall be imposed in the light of instructions of State Rules, 2012 and the same shall be recovered by the Department of Mines and Geology without any delay.

v. If illegal mining is found to be carried out beyond the contract area, an FIR may be lodged by the Mining officer at the nearest Police Station without delay and a report in this regard shall be sent to the Director Mines and Geology and the Deputy Commissioner.



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vi. If it is proved that the mining contractor has carried out illegal mining beyond the contract area in violation of the terms and condition of the agreement after a detailed enquiry, the Director Mines and Geology shall take stringent action against the said contractor as per the State Rules, 2012.

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vii. The State Pollution Control Board shall recover environment compensation and take such other action for violation of the condition of Environment Clearance (EC) in the light of orders of Hon'ble NGT.

viii. A consolidated report of such violations within/outside the contract area carried out by the mineral concession holder shall be submitted to the District Level Task Force (DLTF) and to the Director Mines and Geology, by end of every month positively by the concerned Mining Officer.



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7. That the District Administration as well as Mines and Geology Department is committed to stop the illegal mining in the Aravalli Hill area of Districts Faridabad, Gurugram and Nuh.

Place: Panchkula

Dated: 28/11/2022

Mukul Kumar
DEPONENT

Verification:

Verified that the contents of Para No. 1 to 7 of the present affidavit are true and correct to my knowledge having been derived from official reports and no part of it is false and nothing material has been concealed therein.

Place: Panchkula

Dated: 28/11/2022

Mukul Kumar
DEPONENT

This Affidavit/SPA/GPA/Deed has been executed by the deponents/executants contents of which have been read over & explained to him/her/them which he/she/they understand & admit to be correct

ATTESTED
HEMANT GOYAL
NOTARY PUBLIC
Panchkula (Hr.)
28 NOV 2022

6. Exemptions in certain cases.

(2) In other cases:

- (i) Construction of any building by the public or private sector, or road or any other development project under the authority of any government department or its agencies involving any digging or excavation for a purpose other than winning a mineral:

Provided that where any minor mineral comprising construction sand and stone is excavated and extracted in the process of execution of such projects, the same shall be disposed off or consumed only after obtaining a permit from the Mines and Geology Department and payment of the applicable royalty and other fees as prescribed under rule 32.

- (ii) breaking of land for laying the foundations or basements of individual houses and other establishments over plots up to five hundred square yards involving excavation of the ordinary earth only.

- (iii) breaking of land only for laying the foundations of individual houses or small establishments over plots up to five hundred square yards.

- ** (iv) excavation of brick earth or ordinary clay upto a depth of one and half meters from the adjoining ground level:

Provided that brick earth or ordinary clay so excavated shall be deposited of or

consumed only after obtaining permit from the Director or any officer authorised by him and on payment of royalty as per First Scheduled and application fee as mentioned in Rule 35.

******(3) Notwithstanding anything contained in these rules, the excavations or operations as mentioned in sub-rules (1) and (2) above shall not be treated as mining operations."

31. Permits for extraction of ordinary clay/ earth.

(1) Save in the cases covered under sub-rule (2) of rule 30, the Director or an officer authorised by him in this behalf may grant permit for lifting of ordinary earth from an area not already granted on any mineral concession to the landowner or the person having consent of the landowner on submission of an application;

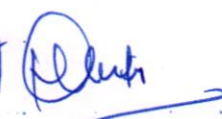
An application for grant of permit shall be submitted in model **form PIM-3**. The application shall be submitted along with following documents:

- (i) The particulars/details of the land, i.e. revenue estate, rectangle number, field numbers etc. from where he proposes to extract/ remove the brick earth;
- (ii) Lay out Plan of the area from where earth is to be removed;
- (iii) Written consent of the land owner(s) or a certified copy of the agreement signed between the landowner and the applicant after mutual settlement of compensation between the parties;

(iv) A copy of the partnership deed or Articles of Memorandum in case the applicant is a partnership firm or a company, as the case may be.

32. Grant of permits for disposal of mineral encountered in the process of construction of buildings/ structures/ development projects.

- (1) Where any mineral is encountered in the process of construction of any building or a development project and has to be extracted in the process of execution of such project, such person may be granted a permit to either use such mineral for self-consumption or for its disposal outside the project area on payment of the applicable royalty and other charges to the government for the quantity so excavated and consumed or disposed off;
- (2) An application for grant of permit under this rule shall be submitted in Form PIM-5. The authorised officer may either himself visit the site or get the same visited by any official subordinate to him, carry out an assessment of the quantity of mineral likely to be excavated from the site vis-à-vis the quantity stated in the application and grant the permit in Form PIM-6 within a period of 7 days of the receipt of application, complete in all respects.
- (3) In case no permit is granted or refused (for reasons to be recorded in writing) within a period of 15 days of the receipt of complete application, the permit would be deemed to have been granted and the applicant may deposit the applicable royalty amount as per his assessment.

*Attested
to be true copy* 

Mining Engineer
for Director General Mines & Geology
Haryana, Panchkula.