

Vidhan Sabha Question

Name of Department	Industries
Starred Question No.	1320
Date of reply	12 /02/2019
Subject	Stone Crushers
Question asked by	Shri Jagat Singh Negi (Kinnaur)
Concerned Minister	Industries Minister

Question	Answer
(a) how many Stone Crushers are running in Kinnaur District under valid permit;	(a) , (b) & (c) The information has been laid on the Table of the House
(b) why mines for minor minerals are not being auctioned in Kinnaur District; and	
(c) whether NOC of concerned G.P. is mandatory for auction of mine or minerals; if so, a copy of rules be laid on the Table of the House?	

**Answer to the Vidhan Sabha Starred AQ No. 1320 asked by Shri Jagat Singh Negi,
MLA(Kinnaur)**

- (a) Presently, in District Kinnaur, 6 stone crusher units have been installed, out of which only two stone crusher unit are running under valid permissions and rest of the stone crusher unit are not in operation.
- (b) It is informed that District Kinnaur falls under Scheduled area of the State and as per the provisions contained in Himachal Pradesh Panchayati Raj (Extension to the Scheduled Area) Rules 2011 and the Himachal Pradesh Minor Minerals (Concession) And Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2015, the recommendations of concerned Gram Sabha is essentially required for the auction of Minor Minerals in the Scheduled area. The matter for obtaining NOC has been taken up by the Department with the concerned Gram Panchayats from time to time, but no response has been received till date. Hence, the Mines for minor minerals are not being auctioned in Kinnaur District.
- (c) Yes, the consent of the Gram Sabha is mandatory as per the provisions contained at Rule 13(5) of Himachal Pradesh Panchayati Raj (Extension to the Scheduled Area) Rules 2011 and Rule 23(2) of Himachal Pradesh Minor Minerals (Concession) And Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2015. The copies of rules are annexed as Annexure-“A” & “B”.

ANNEXURE-‘A’

(Authoritative English text of this Department Notification Number PCH-HA(1)4/2006-III45385-307, dated 26th March, 2011 as required under clause(3) of article 348 of the Constitution of India)

Government of Himachal Pradesh
Department of Panchayati Raj.

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NO.PCH-HA(1)4/2006-III. Dated Shimla-171 009, the 26th March, 2011.

Notification

Whereas the draft Himachal Pradesh Panchayati Raj (Extension to the Scheduled Areas) Rules, 2011, were published in the Rajpatra, Himachal Pradesh on 5 th March, 2011 for inviting objections and suggestions from the persons likely to be affected thereby vide notification No.PCH-HA(1) 4/2006-III, dated 1 st March, 2011 as required under section 186 of the Himachal Pradesh Panchayati Raj Act, 1994 ;

And whereas no objection/suggestion has been received in this behalf during the stipulated period ;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 186 read with section 97-C, 97-F, 97-G, 97-H and 97-I of the Himachal Pradesh Panchayati Raj Act, 1994 (Act No. 4 of 1994), the Governor of Himachal Pradesh is pleased to make the following rules for carrying the purposes of the aforesaid Act, namely:-

1. Short title and extent.- (1) These rules may be called the Himachal Pradesh Panchayati Raj (Extension to the Scheduled Areas) Rules, 2011.

(2) The provisions of these rules shall apply to the Gram Panchayats, Panchayat Samitis and Zila Parishads constituted in the scheduled areas of the State.

2. Definitions.- (1) In these rules, unless the context otherwise requires,--

(a) “Act” means the Himachal Pradesh Panchayati Raj Act, 1994;

(b) "Community resources or resources" means and include land excluding the land owned by individuals, water, forest, minerals and other resources located in the territorial domain of a Sabha area;

(c) "Consultation" means a mandatory consultation under these rules;

- (d) "Gram Sabha" means and consist of persons whose names are included in the electoral rolls of a Gram Panchayat;
- (e) "Minor Forest Produce" means and includes all non-timber forest produce of plant origin including chilgoza, neyoza, bhojpatra, akhrot, ratanzot, shingni mingni, kashmal, bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu, or kendu leaves, medicinal plants and herbs, roots, tubers such as sath jnlori, karoo, dhoop, chora, banafsha, mushk bala, mamiri, ban ajwain, guchchi, dori, kakarsinghi, salm mishri, thuth, kala zira, butkesh, gloe salam panja, nihani, buch, kail cones, dusgtuli, chalora, taispatra, kapper kuchri, patishan roots, bichu buti, deodar rosseite, kush cones, bari phool, kainth, bindi phool, brass phool, pthan bail, green mousghass, khaarera/basanti, ban haldi, bather patta or any other minor forest produce available in scheduled areas of the State and declared as such;
- (f) "Minor Water body" means water body used for fetching drinking water whether a stream, a rivulet, lake and on which the construction of check dams can be made and which has a capacity of irrigating land up to 5 hectares;
- (g) "Panchayat at appropriate level" means the lowest tier of Panchayat which can perform a particular function or in whose area a particular resource is situated; and
- (h) "Scheduled Areas" means the Schedule Areas declared under clause (1) of article 244 of the Constitution of India.
- (2) The words and expressions used but not defined in these rules shall have the same meaning as respectively assigned to them in the Act and rules made thereunder.

3. Gram Sabha to safeguard natural resources.- (1) Gram Sabha, under section 97-C, shall be competent to safeguard and preserve the natural resources located in its area as well as those over which it enjoys traditional rights in relation to water, forest, land and mineral as per local tradition and the spirit of the laws of the Central and State Governments.

- (2) The Gram Sabha shall ensure that resources are utilized in such a way that,-
- (a) livelihood means are sustained;
 - (b) inequality among the people does not increase;
 - (c) resources are not confined to a few people; and
 - (d) there is full utilization of local resources, in keeping with sustainability, and the management of resources shall be done by the Gram Sabha keeping in view the inherent spirit of the community legacy by honouring the individual rights over natural and other resources as per the prevalent rules.

4. Resource, planning and management committee.- (1) The Gram Sabha shall constitute a Resource Planning and Management Committee (hereinafter referred to as 'RPMC') consisting of the Pradhan of the Gram Panchayat and at least five other sabha members to be nominated by the

Gram Sabha, who are not the office bearers of the Gram Panchayat.

(2) The term of the RPMC shall be co-terminous with the term of the Gram Panchayat.

(3) The meeting of the RPMC shall be held at least once a year and it shall be the duty of the Pradhan to convene such meeting. The Secretary or the Panchayat Sahayak, as case may be, shall be the Secretary of the RPMC.

(4) The representatives of the Development Block level offices of the Agriculture, Forest, Horticulture, Industries, Irrigation and Public Health and Revenue departments of the State Government shall function as advisors to the RPMC and shall also attend its meetings.

(5) The RPMC shall chalk out a plan for the best possible use of all the resources within the sabha area and shall advise and cooperate with the sabha members to make use of them accordingly.

(6) The RPMC shall consider all the aspects, including difference of opinion or dispute about the management and use of the resources and in case the RPMC is not able to resolve any issue then the said issue shall be referred to the Gram Sabha for consideration. The decision of the Gram Sabha thereon shall be final.

5. Gram Sabha to plan for farming.- (1) Gram Sabha, under section 97-C, shall be competent to plan and take action for making farming economically viable by considering the measures for,-

(a) prevention of soil erosion;

(b) regulating grazing in order to protect crops and enhance the capacity of meadows;

(c) harvesting rain water for its use in farming and for its distribution;

(d) ensuring provision of seeds, manure etc. as well as knowledge sharing with mutual cooperation or otherwise; and

(e) promoting organic manures, fertilizers and insecticides.

6. Land management.- (1) The Gram Sabha, within its area, shall be competent to review records of the entire land of the village for ensuring that the farmer's names are correctly recorded and records are properly maintained;

(2) It shall be mandatory for concerned revenue officials to take permission from the Gram Sabha prior to transfer of land by sale, mortgage, lease-contract etc in which the owner or tiller of the land changes.

7. Prevention of land alienation.- (1) The Gram Sabha Shall ensure that no land belonging to a Scheduled Tribe is transferred to a non-scheduled Tribe person. If any case of

alienation of such land comes to the notice of the Gram Panchayat or the Gram Sabha, in that event it shall be the duty of the Pradhan to make a report in this regard to the concerned authority of the Revenue

Department of the State Government. The said authority shall take further necessary action for restoration of unlawfully alienated land to the actual owner of the land.

(2) The Gram Sabha shall be competent to enquire into any land transactions on the basis of complaints or suo-moto. The enquiry report of the Gram Sabha shall be forwarded by the Pradhan of the Gram Panchayat concerned to the concerned authority of the Revenue Department of the State Government along with a copy each of the said report to the Chairman of the Panchayat Samiti and Zila Parishad concerned.

(3) If the Gram Sabha is of the opinion that attempts are being made to alienate lands belonging to a Scheduled Tribe, it shall issue instructions to prohibit such transaction. The decision of the Gram Sabha in such cases shall be final and binding upon the concerned revenue authority.

8. Restoration of alienated land.- (1) If Gram Sabha finds that any person other than a member of the scheduled tribe, without any lawful authority, is in possession of any land owned by of a scheduled tribe, it shall, through the Pradhan of the Gram Panchayat, take up the matter with the concerned authority of the Revenue Department of the State Government for restoration of the possession of such land to that person to whom it originally belonged and if that person is dead, in that event to his legal heirs.

(2) In case of dispute regarding restoration of land under sub-rule (1), the Gram Sabha shall follow its customary mode of dispute resolution.

9. Consultation before land-acquisition.- (1) When the government considers any case of land acquisition under any law for the time being in force, the government or the concerned authority shall submit to the Gram Sabha as per provisions of section 97-F, the following written information along with the proposal:-

- (a) the complete outline of the proposed project including the possible impact of the project;
- (b) proposed land acquisition;
- (c) new people likely to settle in the sabha area and possible impact on the area and society;
- (d) the proposed participation, amount of compensation, job opportunities, for the people of the village; and
- (e) the rehabilitation and sustainable livelihood plan.

(2) After getting complete information, the concerned Gram Sabha shall be competent to summon the representatives of the concerned authorities and the government to examine them

either individually or collectively. It shall be mandatory for all such persons summoned to furnish point- wise clear and correct information.

(3) The Gram Sabha, after considering all the facts shall make a recommendation regarding the proposed land acquisition and rehabilitation plan of persons to be displaced.

(4) The recommendation of the Gram Sabha shall be considered by the land Acquisition Officer.

(5) In case the land Acquisitions Officer is not in agreement with the recommendations of the Gram Sabha, he shall send the case again to the Gram Sabha for reconsideration.

(6) If after a second consultation, the Land Acquisition Officer passes an order against the recommendations of the Gram Sabha, he shall record the reasons for doing so in writing.

(7) In case of industrial projects, the Gram Sabha(s), of whose area is/are influenced by such projects, shall be consulted. In the event of more than one Gram Sabha, in case of difference of opinion amongst the Gram Sabhas, the matter shall be resolved at the Panchayat Samiti level, whose decision thereon shall be final.

(8) The progress report of rehabilitation and sustainable livelihood plan shall be placed before the Gram Sabha after every three months from the date of notification for land acquisition.

(9) If in the opinion of the Gram Sabha, the Panchayat Samiti, as the case may be, suggested measures are not followed, the Gram Sabha may inform the concerned department of the State Government in writing regarding the same, and it shall be mandatory for the said department to take appropriate action.

10. *Planning and management of water resources.*- (1) The management and use of water resources shall be planned by the Gram Sabha, as per provisions of section 97-G of the Act, in such a manner that these are kept intact for future generations, and all the villagers have equal rights over these resources. (2) Water bodies within a Gram Panchayat shall be managed by the Gram Panchayat, those extending to more than one Gram Panchayat area, by the Panchayat Samiti concerned and those extending to more than one Panchayat Samiti area, by Zila Parishad.

(3) The Gram Panchayat, Panchayat Samiti, Zila Parishad, as the case may be, after consulting the RPMC and the Gram Sabhas concerned, keeping in view its traditions and the spirit of prevalent laws, shall regulate the use of available water in the village for various purposes and also decide about the priority of use.

11. *Management of land for ponds.*- The Gram Panchayat, Panchayat Samiti, Zila Parishad, as the case may be, shall make arrangements for the farming of land available as a consequence of the receding of water level of ponds meant for the irrigation and other purposes, in consultation with 21 RPMC and concerned departments.

It shall also decide about the levy rate on that land, keeping in view State Government rules.

12. Fishing etc.- (1) All Gram Sabha members shall have equal rights for fishing as per the convention in the water resources located within the territory of the village.

(2) The Gram Panchayat shall impose necessary conditions, keeping in view the local traditions, regarding any aspect of fishing to ensure that one or more persons do not encroach their limit in an unjust manner and also to maintain the availability of the fish.

13. Gram Sabha to plan for minor minerals.- (1) The Gram Sabha, under section 97-H, shall be competent to plan and control the excavation and use of all the minor minerals including soil, stones, sands, etc in the Sabha area. The decision of the Gram Sabha taken in this behalf shall be implemented by the Gram Panchayat concerned.

(2) The sabha members may use minor minerals for their individual needs as per their traditional practice subject to the condition that,-

(a) the Gram Sabha shall decide the extent of use of the minor minerals such as stone, sand, etc for making Pukka houses different from the traditional dwellings and may also impose royalty thereon which shall form part of the Panchayat fund ;

(b) the permission of Gram Panchayat shall be compulsory for use and exploitation of minor minerals; and

(c) the Gram Sabha shall fix the responsibilities such as filling up of pits, planting trees, constructing ponds etc. by persons undertaking excavation for use of minor minerals to compensate for ill effects of excavation.

(3) The concerned department of the State Government may award mining lease for minor minerals only in consultation with Gram Sabha by incorporating additional conditions, if any, imposed by the Gram Sabha for protecting the environment, employment, etc for such leases.

(4) (a) In villages having commercial feasibility of minor mineral production, before permitting the minor minerals to be used commercially, it shall be the responsibility of the concerned department of the State Government to consult Gram Sabha.

(b) If any condition has been imposed by the Government for the protection of the environment etc. the concerned officer shall provide complete information to the Gram Sabha in this regard.

(c) The plan for exploitation of minor minerals shall include arrangements such as excavation area, the type of area, managing of ill effects of excavation such as existence of pits, water shortage or reduction in vegetation, effect of ash or smoke on fields, etc. so as to nullify all these effects by filling up the pits, planting trees or by taking other suitable measures.

(5) If any concession is given by any Government department for the exploitation of minor minerals, it shall be mandatory for the said department to obtain the permission of the Gram Sabha for grant of concession for exploitation of minor minerals by auction.

14. Regulation of intoxicants.- (1) The Gram Sabha, under section 97-I (b), shall be competent to enforce prohibition or regulation or restriction on sale and consumption of any intoxicant within its limits for which the Gram Sabha, by a resolution passed in this behalf, may,-

- (a) completely stop the relaxation of allowing tribals to make local liquor for their own use or impose any type of ban on it in the village;
- (b) give instructions to stop the sale of any type of intoxicant from a shop or in any other manner: Provided that these instructions shall come into force from the forthcoming financial year;
- (c) impose restrictions on bringing in any type of intoxicant or taking it outside the village territory;
- (d) prohibit or fix a limit on the storage of intoxicants at any place;
- (e) completely stop the use of liquor or other intoxicants in its area or impose any restriction;
- (f) regulate the sale of material used for brewing of liquor such as corn, fruits, Jaggrey etc. ; and
- (g) regulate the use of locally made liquor such as anguri, sulphi, chuli, bemi, apple, kiwi, brandy, chhang or known by any other local name.

(2) (a) The Gram Sabha may constitute an Intoxication Control Committee, consisting of at least seven members to be nominated by the Gram Sabha, to inquire into matters relating to intoxicants either on the basis of complaint(s) or suo motto, and to make suitable suggestions regarding the control of intoxicants for the benefit of the Sabha members:

Provided that at least half of the members of the Intoxication Control Committee shall be women.

(b) The Intoxication Committee shall,-

- (i) ensure as to whether the factories/distilleries manufacturing any type of intoxicants are adhering to all the conditions mentioned in the license and in case of any infringements,

report the matter to the Gram Sabha for initiating further action through the competent excise authorities; and

(ii) ask the owner of the concerned factory/distillery to present all matters relating to the welfare of the people including manufacture of liquor, distribution system, its environmental impact etc. before the Gram Sabha.

(c) The Gram Sabha through the Pradhan of the Gram Panchayat may take advice and help from the Excise Department for the smooth functioning of the Intoxication Control Committee.

(3) (a) Without the concurrence of the Gram Sabha, no factory/distillery for manufacturing liquor or other intoxicants shall be established.

(b) Proposal to establish a factory/distillery to manufacture liquor or other intoxicants or to open a new shop for the sale of liquor in the limits of a Gram Sabha, by the Government or any other agency, shall be presented before the Gram Sabha for consultation through the Pradhan of the Gram Panchayat. Such proposal shall be presented for the information of the sabha members in the meeting of the Gram Sabha, which shall be considered in the next meeting or in a special meeting of the Gram Sabha. The decision of the Gram Sabha on the said proposal shall be final.

(c) In case the Gram Sabha does not arrive at any decision on the issue or if the proposal is not considered, then that proposal shall be deemed not to have been accepted.

15. Consultation with Gram Sabha for exploitation of forest produce.- (1) Before chalking out the departmental programme for exploitation of forest produce under section 97-I (a), the Forest Department shall consult the Gram Sabha.

(2) The Forest Department shall ensure that the exploitation of the forest produce is in consonance with the scheme chalked out with people's consent keeping in view the general Forest laws and no such plants/ trees shall be cut which are useful to the local people. It shall also be ensured that there is no illegal export of the forest produce.

(3) Despite any provisions about minor forest produce in any law for the time being in force, the management of forest produce shall be done to protect the right of ownership, access to collect, use and dispose of minor forest produce which has been traditionally collected within or outside the sabha area in consonance with section 3 of the Forest Rights Act, 2006.

(4) The Gram Sabha may chalk out an action plan about the use or exploitation of minor forest

produce in consultation with the forest officer concerned.

(5) Gram Sabha may, in case of limited quantity of a minor forest produce, make a cyclic arrangement for its collection and use by a few people such as re-sourceless and economically weaker groups.

(6) Gram Sabha shall be competent to ensure strict compliance of rules for the exploitation of minor forest produce so that the persons collecting minor forest produce do not commit any act which damages the forest.

16. Royalty on minor forest produce.- (1) The Forest Department, keeping in view the sale price of the minor forest produce, from time to time, shall determine and notify the royalty payable by the trader of minor forest produce.

(2) The trader of the minor forest produce shall make an application to the Gram Panchayat concerned through its Pradhan for issue of transit permit for export of minor forest produce.

(3) Immediately after receipt of the application(s), the Pradhan of the Gram Panchayat shall place the same in the meeting of the Gram Panchayat for consideration and approval.

(4) Subject to the approval of the Gram Panchayat, it shall be the duty of the Pradhan to forward the said application(s) to the concerned forest guard of the forest department for recommendations. On receipt of the said application(s), the forest guard shall verify that the species have been extracted from the specified area in accordance with the approved extraction cycle and that the extraction has been done in a sustainable manner and has not caused any ecological or environmental damage in the area and shall return the said application to the Pradhan of the Gram Panchayat concerned after his written recommendations on the said application(s) for issue of transit permit(s).

(5) After receiving the recommendation of the forest guard, the Pradhan, through the Secretary or the Panchayat Sahayak, as the case may be, shall realize permit fee from the trader(s) for export of minor forest produce against receipt issued in Form-3 appended to the Himachal Pradesh Panchayati Raj (Finance, Budget, Accounts, Audit, Works, Taxation and Allowances) Rules, 2002 at such rates as are notified by the Forest Department of the State Government from time to time.

(6) After the completion of the process mentioned in sub-rules (3) and (4), the transit permit(s) shall be issued to the applicant(s), on the Form specified under the Himachal Pradesh Forest Produce Transit (Land Routes) Rules, 1978, duly signed by the Secretary or the Panchayat Sahayak, as the case may be, and countersigned by the Pradhan of the Gram Panchayat. The duplicate copy of the transit permit shall also be forwarded to the Divisional Forest Officer concerned.

(7) It shall be the duty of Secretary or the Panchayat Sahayak, as the case may be, to give the

following details on the transit permit:-

- (a) resolution number and date of meeting in which the Gram Panchayat has approved the matter regarding issue of transit permit;
- (b) the type and quantity of the minor forest produce proposed to be exported;
- (c) the amount of permit fee realized along with the receipt number of the Gram Panchayat; and
- (d) the period for which the transit permit shall be valid:

Provided that the validity of any transit permit, under no circumstances, shall exceed a period of six months from its date of issue.

(8) The amount of fee realized for issue of transit permit for export of minor forest produce shall form part of the Panchayat fund and shall immediately be deposited in the account of the Gram Panchayat in post office or co-operative bank or a scheduled bank, as the case may be, where the Panchayat fund is kept.

(9) It shall be the duty of the Secretary or the Panchayat Sahayak, as the case may be, to place the following details with regard to issue of permit in the Gram Sabha meetings for the information of the sabha members:-

- (a) number of transit permit(s) issued;
- (b) names of the trader(s) to whom the transit permit(s) have been issued;
- (c) types and quantity of the minor forest produce for which transit permit(s) have been issued; and
- (d) amount of permit fee realised.

(10) The Divisional Forest Officer shall maintain the record pertaining to permits issued by the Gram Panchayats, fee realized, type and quantity of minor forest produce for which permits have been issued so as to have vigil over the cases of illegal export of minor forest produce and misappropriation of funds.

17. Official management of minor forest produce.- (1) If the State Government organizes the trade of any minor forest produce in order to protect tribal interests, that trade shall be treated as trade carried out on behalf of the sabha members, but prior approval of the Gram Sabha shall be compulsory for the said arrangement. On the basis of suggestions of the Gram Sabha, necessary changes shall be carried out in such trade.

(2) In such trade, Gram Sabha and the persons collecting and trading in minor forest produce shall have complete right over net profit.

18. Scheme for minor forests produce.- (1) For meeting the requirements of sabha members such as grazing, fuel wood, making houses and ploughs, the Gram Sabha shall chalk out a scheme for the use of forest resources used traditionally by the people in consultation with the concerned Forest Officer. Under this scheme every person residing in the sabha area shall be able to use the resources after getting written permission from the RPMC.

- (2) Gram Sabha may make regulations so as to ensure that the interest of the sabha members for collecting the fuel wood and other minor forest produce are protected.
- (3) Gram Sabha may chalk out suitable programmes to conserve the forest, improve the environment and enhance employment at local level in their respective areas.
- (4) Gram Sabha shall be competent to make enquiries, despite the departmental permit, about the wood or the forest produce passing through its areas. In the case of a doubt of illegal operations, Gram Sabha through its Pradhan shall be competent to stop it on the spot.

19. Control over markets.- (1) Gram Sabha, under section 97-I (c), through the Gram Panchayat, shall be competent to control and manage the markets within its territory. It shall be the duty of the Gram Panchayat to,-

- (a) make available water, sheds and other physical facilities to the shopkeepers and the consumers in the market;
- (b) prohibit the inflow and sale of harmful objects in the market;
- (c) ensure that the weight, measurement and payment in the transactions are genuine;
- (d) obtain and share information about the prices being charged;
- (e) prohibit all unfair practices, including cheating or misinformation regarding prices;
- (f) prohibit gambling, betting, testing luck, cock-fighting etc. in the market or its surrounding area; and
- (g) levy tax or teh-bazari on the shopkeepers of the market: Provided that no tax or teh-bazari shall be levied on small vendors coming to the market to sell the yield. The Gram Sabha shall be competent to decide who qualifies as a small vender.

(2) Gram Sabha may constitute a Market Committee for the management of the market of the villages in its area. Market Committee shall be accountable for the arrangement of such market and for keeping peace at the place where the market is held and also for ensuring smooth functioning of the market without any conflict or quarrel.

(3) In case of any dispute the decision of the Market Committee may be challenged in Gram Sabha. The decision of Gram Sabha thereon shall be final.

20. Control over money lending transaction.- (1) Notwithstanding any provisions in any law, as per the spirit of section 4 (m) of the Panchayats (Extension to the Scheduled Areas) Act, 1996 [Act No.40 of 1996], the Gram Sabha, under provisions of section 97-I (d), shall be competent to control money lending transactions of all the sabha members and for this purpose, the Gram Sabha may form a Debt Control Committee consisting of not less than five sabha members to be nominated by the Gram Sabha.

Explanation.- Money lending transactions shall include loan etc. extended by the government, cooperative society, money lenders, banks and other institutions under an Act or privately or informally, as per the convention or otherwise.

(2) Gram Sabha shall be competent to decide the condition of maximum interest and repayment in the matters of private transactions.

(3) Gram Sabha may ask for any information regarding the loan extended by any person or institution to the villagers, its conditions, repayment status etc. In these matters, on being asked for the information, the concerned person or institution shall provide complete information to the Gram Sabha within the reasonable time specified by the Gram Sabha through the Pradhan of the Gram Panchayat.

(4) A sabha member may put up his case in writing or orally before the Gram Sabha or Debt Control Committee regarding any kind of irregularity, corruption in transaction, the recovery proceeding, inability to repay the loan etc. in respect of the loan extended by any institution or person. If there is an oral complaint, it shall be the duty of the Secretary or Panchayat Sahayak of the Gram Panchayat to get the same reduced in writing in this regard and to keep the same in records.

(5) After considering the application mentioned in sub-rule (4) if the Gram Sabha itself or on the basis of the conclusions of the Debt Control Committee finds that there has been injustice with the applicant, it may instruct the concerned institution/person to redress the said injustice.

(6) Gram Sabha, through the Pradhan of the Gram Panchayat especially in the case of the tribals, may instruct a bank, society or any lender that loans be disbursed only in the presence of Gram Sabha or its Debt Control Committee. The same instructions may be issued about the repayment of the loan. The instructions of Gram Sabha shall be binding.

(7) If the concerned institution has any objection with regard to the instructions mentioned in subrule (6), it may appeal to the District Collector. The District Collector shall appoint an arbitrator, who shall decide the said appeal, whose decision thereon shall be final.

(8) Gram Sabha may review written, oral and informal agreements of all kinds of labourers in the village and ensure that there is no bonded labour for repayment of loan.

21. Approval of programmes by Gram Sabha.- (1) The Gram Panchayat shall obtain the approval of the Gram Sabha on plans and projects for the sabha area.

(2) Before starting any programme or project in the sabha area, the Gram Panchayat, government department, any other institution, as the case may be, shall submit the proposal before the Gram Sabha through the Pradhan of the Gram Panchayat for its approval and such proposal shall include,-

- (a) the relevance and importance of the programme with reference to the objectives finalized for the development of the village;
- (b) the full financial details of the programme, such as expenditure by government, loan or aid; and
- (c) in matters regarding construction works, their dimension, construction material, use of technology and machines, participation of the local workers, the role of contractors etc.

(3) The Gram Sabha shall approve the plan, programme or project in the form in which it is presented by the concerned institution or approve it with certain conditions as it may deem fit and while giving an approval it may make necessary modifications keeping in mind the situation of the village(s). The decision of the Gram Sabha, in this behalf, shall be final and binding.

22. Compliance of decision of Gram Sabha by Government Departments and Gram Panchayat.-

(1) The Gram Panchayat and its committees shall work under control and direction of the Gram Sabha and shall be wholly accountable to the Gram Sabha.

(2) The Gram Panchayat shall function as per the rules made under the Act and in case of any conflict between these rules and directives of the Gram Sabha, the latter shall have precedence.

(3) While using its right under sub-rule (2), if the Gram Sabha takes a decision which causes hindrance or there is possibility of hindrance in the official work of any department or officer, action shall be taken as follows:-

- (a) the representative or the officer of the concerned department shall postpone the action on the disputed matter and present his point of view to the Gram Sabha and with a request to reconsider its decision; and
- (b) if the said department is not satisfied with the decision of the Gram Sabha, it shall refer the matter to District Collector whose decision thereon shall be final.

23. Powers to exercise control over institutions and functionaries.- (1) The Panchayat Samiti, under section 97-I (2)(a), shall be competent to supervise and monitor the functioning of schemes of the departments, namely, Agriculture, Animal Husbandry, Ayurveda, Education, Food and Supplies, Forest, Health and Family Welfare, Horticulture, Industries, Irrigation and Public Health, Public Works, Revenue, Rural Development and Social Justice and Women Welfare. The office bearers of Panchayat Samiti shall be competent to inspect and make report about the physical attendance of the block and village level functionaries of the said departments in their assigned areas of work.

(2) The Panchayat Samiti, through its Secretary shall issue directions for field visit by the Block level functionaries of the departments mentioned in sub-rule (1) and also to approve their tour programmes. (3) The Chairman of the Panchayat Samiti shall record his remarks on the annual confidential reports of the Block level functionaries of the departments mentioned in sub-rule (1).

By order

Secretary(Panchayati Raj) to the
Government of Himachal Pradesh.

Endst. NO. PCH-HA(1)4/2006-III-45285-307

Dated, Shimla-9, the 26th March, 2011.

Copy for information and necessary action forwarded to:-

1. All the Principal Secretaries/ Secretaries to the Government of Himachal Pradesh.
2. The Principal Chief Conservator of Forests, Himachal Pradesh, Shimla-2.
3. The Commissioner, Excise & Taxation Department, Shimla-9.
4. The Engineer-in-Chief, I&PH, Himachal Pradesh-Shimla-9.
5. The Deputy Commissioners of District Chamba, Kinnaur & Lahaul Spiti, HP.
6. The District Panchayat Officers of District Chamba, Kinnaur & Lahaul Spiti, HP.
7. Principal, Panchayati Raj Training Institute, Baijnath & Mashobra.
8. All the Block Development Officers of District Chamba, Kinnaur and Lahaul Spiti HP.
9. Controller Printing and Stationary Department, H.P. Shimla-171005 with the request that the above notification may kindly be published in Rajpatra.

Sd/-

Special Secretary (Panchayati Raj) to the
Government of Himachal Pradesh.

ANNEXURE-‘B’

(Authoritative English text of this Department notification No Ind-II(F)6-14/2014 dated 13.3.2015 as required under clause (3) of article 348 of the Constitution of India)

Government of Himachal Pradesh Department of Industries

Dated, Shimla-171001

Notification

In exercise of powers conferred by section 15 read with section 23 C of the Mines and Minerals (Development and Regulation) Act, 1957, the Governor, Himachal Pradesh is pleased to make the following rules, namely:-

CHAPTER-1

PRELIMINARY

Short title and commencement.- (1) These rules may be called the Himachal Pradesh Minor Minerals (Concession) and Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2015.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. Definitions.- (1) In these rules, unless the context otherwise requires,-

- (a) ‘Act’ means the Mines and Minerals (Development and Regulation) Act, 1957;
- (b) ‘assessee’ means a Mineral Concession Holder and includes a person who raises any minor mineral from any land without permission from the Department;
- (c) ‘Assessing Authority’ means a Mining Officer and includes any other authorized officer to make assessment under these rules;

20. Rights of lessee.- Subject to the conditions mentioned in rule 19, the lessee, with respect to the land leased to him, shall have the right for the purpose of mining operations on that land to,-

- (i) work the mine;
- (ii) sink pits and shafts and construct buildings and roads;
- (iii) erect plant and machinery;
- (ii) use land for stacking purposes;
- (iii) do any other things specified in the lease; and
- (iv) to sell sand, river borne bajri, crusher dust and ordinary earth/clay from the lease granted for the establishment of stone crusher.

21. Transfer of mining lease.- (1) The lessee may, with the previous approval of the sanctioning authority assign, sublet or transfer his lease or any right, title or interest therein to any person or body directly undertaking mining operation, holding a valid Certificate of Approval on payment of a sum as specified in the First Schedule.

- (2) The applicant may also change the title or name of the already issued 'Letter of Intent' or 'Grant Order' in favour of any person holding a valid Certificate of Approval on the payment of a sum as specified in the First Schedule.
- (3) Where an application for transfer of mining lease under sub-rule (1) is made and the Competent Authority has given approval for transfer of such lease, a transfer lease deed in **Form-'J'** shall be executed within three months from the date of issue of the Order or within such further period as the Competent Authority may allow in this behalf.

22. Right to surrender lease.- The lessee may surrender the lease at any time by giving notice of not less than six calendar months in writing to the Competent Authority after paying all outstanding dues of the Government and fulfilling conditions of mine closure plan.

GRANT OF CONTRACTS

23. Grant of contracts by auction or tender.- (1) In case the Government decide to grant the mineral concession in the form of Contract; it may grant the same for mining for a maximum period of ten years following a competitive bidding process by way of auction or tender:

Provided that in the case of forest land, the period of contract may be extended upto a maximum period of fifteen years.

(2) No auction or tender or contract shall be considered as successful unless accepted by the Competent Authority. The amount of the successful bid/tender shall become the annual contract money payable by the Contractor to the Government for a period of two years and after completion of two years, the annual contract money determined at the time of initial grant shall be increased at the rate of 10% per annum in a compounding manner:

Provided that no auction or tender or contract, as the case may be, regarding exploitation of minor minerals in Scheduled area shall be considered by the Government for acceptance unless recommended by Gram Sabha.

(3) The amount to be paid annually by contractor under sub-rule (2) to the Government shall be payable in equal quarterly installments in advance.

(4) The Agreement deed shall be executed by the successful bidder or tender with the Director or any other authorized officer in the **Form-‘K’** and the mining operations shall be carried out in accordance with the terms and conditions of the agreement deed.

(5) In the event of grant of contract, the party shall not be permitted to withdraw his bid or tender and in doing so the party will be liable to forfeiture of earnest money and security.

(6) The mechanical mining in river and stream bed shall be allowed only with the help of tyre mounted front end loader upto 80 Horse Power without backhoe with the permission of the Director. The contractor seeking such permission shall deposit a sum as specified in the First Schedule as security and the Director may permit the use of mechanical mining under following terms and conditions:-

- (i) depth of the pit below the surface shall not exceed 1 metre from the adjoining ground in case of river/stream bed;
- (ii) natural flow of the water shall not be disturbed;
- (iii) the excavation of mineral shall be done by way of uniform stripping of mineral in a scientific manner;
- (iv) any other condition imposed by the Competent Authority; and
- (v) any violation of terms and conditions imposed while granting such permission shall result in cancelation of contract and forfeiture of security amount thereof:

Provided that the contractor may use any type of excavator in hill slop mining.

(7) The contractor shall furnish returns relating to production and other matters in **Form-‘G’**

(8) No contract shall be granted to a person who does not hold the Certificate of Approval in **Form-‘B’**.

24. Auction/Tender Committee.- For conducting auction and its finalization, the State Government shall constitute Committee(s) for concerned district which may reject or accept any bid or tender without assigning any reason to the bidder or tenderer and in the case of rejection of bid or tender, the reason shall be reported to the Government.