

HARYANA VIDHAN SABHA

REPORT

OF

THE COMMITTEE

ON

SUBORDINATE LEGISLATION

THIRTY FIFTH REPORT

2005-2006

(Presented to the Haryana Vidhan Sabha on the 21st March 2006)



HARYANA VIDHAN SABHA SECRETARIAT CHANDIGARH

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COMPOSITION OF THE COMMITTEE
(2005-2006)
COMMITTEE ON SUBORDINATE LEGISLATION

Chairperson

Shri Mange Ram Gupta MLA

Members

Shri Nirmal Singh MLA

Smt Anita Yadav MLA

*Smt Meena Rani MLA

Shri Dura Ram MLA

Shri Harsh Kumar MLA

Shri Dinesh Kaushik MLA

Advocate General

Secretariat

Shri Sumit Kumar Secretary

Shri Data Ram Deputy Secretary

The Committee was constituted vide Haryana Vidhan Sabha Secretariat
Notification No HVS-SLC 1/2005/25 dated 5th April 2005

- * Resignation from the Membership of the Committee was accepted by the Hon ble Speaker w e f 14th January 2006 (A.N) on being appointed as Minister of State Haryana vide notification No HVS-SLC-1/2005-2006/14 dated 16th January 2006

INTRODUCTION

I the Chairperson of the Committee on Subordinate Legislation having been authorized by the Committee to present the report on their behalf present this Thirty Fifth Report to the House

2 The matters covered by this Report were finally considered by the Committee at their sitting held on 8th March 2006 and adopted this Report

3 A brief record of the proceedings of each meeting of the Committee has been kept on record of the Haryana Vidhan Sabha Secretariat

4 The Committee also places on record their high appreciation for whole hearted co operation and valuable assistance given by the Secretary Deputy Secretary and Staff of the Legislation Branch

Chandigarh
The 8th March 2006

MANGE RAM GUPTA
CHAIRPERSON
Committee on Subordinate
Legislation

REPORT

1 The Committee on Subordinate Legislation for the year 2005 2006 was nominated by the Speaker Haryana Vidhan Sabha under rule 252 of Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 5th April 2005 and was notified in the official Gazette vide notification No HVS SLC-1/2005-06/25 dated the 5th April 2005

2 Shri Mange Ram Gupta was appointed as the Chairperson of the Committee by the Speaker

3 The Committee held 45 sittings till the presentation of the report

4 Besides watching the implementation work relating to earlier reports the Committee scrutinized the following Rules/Bye-laws —

- 1 The Haryana Municipal (Sanitation and Public Health) Bye laws 1976 framed under the Haryana Municipal Act 1973
- 2 The Punjab Ayurvedic and Unani Practitioner s (General) Rules 1964 framed under the Punjab Ayurvedic and Unani Practitioner s Act, 1963
- 3 The Punjab Minor Mineral Concession Rules 1964 framed under the Mines and Minerals (Development and Regulation) Act, 1957

The Committee also orally examined the various Departments of the State Government and made its observations/recommendations on the relevant Rules/ Bye-laws under scrutiny

SCOPE AND FUNCTIONS OF THE COMMITTEE

The scope and functions of the Committee are set down in rules 251 259 and 260 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly Rule 251 enjoins upon the Committee "to scrutinize and report to the House whether powers to make regulations rules sub-rules bye-laws etc conferred by the Constitution or delegated by the legislature are being properly exercised within such delegation and consider such other matters as may be referred to it by the Speaker " Further rule 259 of the said Rules lays down that while examining any such set of rules bye-laws etc the Committee shall in particular consider —

- (i) Whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made
 - (ii) Whether it contains matters which in the opinion of the Committee should more properly be dealt within an Act of the Legislature
 - (iii) Whether it contains imposition of any tax
 - (iv) Whether it directly or indirectly bars the jurisdiction of the courts
 - (v) Whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power
 - (vi) Whether it involves expenditure from the consolidated fund of the state or the Public Revenues
 - (vii) Whether it appears to make some unusual or unexpected use of the powers conferred by the constitution or the Act pursuant to which it is made,
 - (viii) Whether there appears to have been unjustifiable delay in the publication or laying it before Legislature and
 - (ix) Whether for any reason its form or purport calls for any elucidation
- Rule 260 lays down as follows -

1 If the Committee is of opinion that any Order/Rules/Bye-law etc should be annulled wholly or in part or should be amended in any respect it shall report that opinion and the grounds thereof to the House in its Report

2 If the Committee is of the opinion that any other matter relating to any Order/Rules/Regulation should be brought to the notice of the House it may report that opinion and matter to the House

In short, the functions of the Committee are to see if the rules framed by the Executive are within the scope of the delegation made under the Act and do not go beyond the scope of such delegation If the Committee finds that any rules is beyond the scope of the powers delegated under the Act by the Legislature the Committee can recommend that the rule be suitably amended or omitted

There are certain rules which are required by the statute to be laid before the Legislature. But the Committee is competent to examine all the Rules Regulations/ By-laws etc. framed under various Acts irrespective of the fact whether these have been laid on the Table of the House or not.

The Committee is competent to send for persons papers or records if such a course is considered necessary for the discharge of its duties. In this connection attention is invited to rule 257 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly which reads as under -

"257 (1) The Committee on Subordinate Legislation shall have power to require the attendance of persons or the production of papers or records if such a course is considered necessary for the discharge of its duties

Provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee the question shall be referred to the Speaker whose decision shall be final

Provided further that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State

(2) The witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of the Committee

(3) It shall be in the discretion of the Committee to treat any evidence tendered before it as secret or confidential

(4) No document submitted to the Committee shall be withdrawn or altered without the knowledge and approval of the Committee

The Committee has framed the internal working rules wherein the detailed procedure has been laid down. Generally the Committee from time to time select set of rules framed under the various Acts for their scrutiny and examine these at the first instance at their own level with the assistance of the Law Department and the Vidhan Sabha Secretariat. The Committee then invites the Administrative Secretary concerned for oral examination to explain the discrepancies found in the various rules/orders

However the Chairperson of the Committee may on a request being made to him permit any other senior officer to represent the department before the Committee. After the rules/orders and the departmental representatives have been examined the Committee prepares the report and presents it to the House. Copies of the report after its presentation to the House are forwarded to the concerned departments for taking further action on the observations/recommendations of the Committee. The action taken by the Departments are watched by the Committee from time to time. In case where any Department is not in a position to implement or feels any difficulty in giving effect to a recommendations made by the Committee the Department is required to place its views before the Committee which may if it thinks fit present further observations/recommendations to the House after considering the views of the Department in the matter.

Some of the Parliamentary conventions established in connection with the scrutiny of Rules Regulations Bye-laws etc are given below —

- 1 The Committee would scrutinize only such rules which have been finally published in the Gazette and not the draft rules
- 2 The Department of the Govt would ensure that rules are framed under an Act as early as possible after the enactment of the Act and in no case this period should exceed six months. If the rules are not framed within six months the Committee may ask the Department about the reason for the delay in framing the rules. This is only by convention.
- 3 The Executive should ensure that no rule goes beyond the power delegated by legislature. If the rules go beyond the powers delegated by legislature the Committee may examine the same and report to the House.
- 4 The Executive should be impressed upon that whenever rules are framed or amendments are made in the existing rules those should be serially and centrally numbered and should indicate in the margin of each rule the reference of the section under which the rules are framed.

However, some of the broad principles established by the Committee for the guidance of the Executive are given below -

- (i) As far as possible guidelines/criteria to be followed by the authority concerned for the exercise or discretionary power vested in it should be laid down in the rules.
- (ii) In cases where the authority concerned deviates from a norm it should be required to record in writing the reasons for such deviation.
- (iii) Before any adverse action is taken against a party it should be given a reasonable opportunity of being heard and after a decision adversely affecting a party has been taken it should have the right of appeal or representation as the case may be.
- (iv) In order that the persons similarly placed are not treated differently the powers of exemption/relaxation should be exercisable in respect of categories or class of persons as contra distinguished from individuals.
- (v) In cases where an authority concerned is vested with the power to suspend a license or supplies pending institution or regular proceedings a maximum time-limit for suspension should be laid down in the rules.
- (vi) The provisions of rules which may make a citizen liable to a penalty should be well defined and not worded vaguely.

- (vii) In case of seizures and searches suitable safeguards like the presence of witness preparation of inventories of seized goods and giving a copy thereof to the persons concerned should be provided
 - (viii) In case of rules relating to disciplinary proceedings not only the punishing powers of the competent authority should be precisely defined but the procedure to be followed by the competent authority be also laid down in the rules
 - (ix) Statutory rules should be amended by Statutory rules only and not by executive orders
 - (x) The rules made in exercise of powers delegated under statute are precise and free from ambiguity instead of being cryptic sketchy or skeleton or needing further interpretations It should be in simple language so that different people cannot put different interpretations For example expressions like unreasonable large quantity reasonable intervals or frequent intervals etc should be avoided
 - (xi) Generally Rules should not be made applicable from retrospective effect adversely affecting the rights of any class or category unless specifically permitted by the Act
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GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

1 Delay in framing the Rules

The Committee reiterates the recommendations made in its previous Thirty Fourth Report and observes that ordinarily rules should be framed as early as possible after the enactment of an Act and in no case the period should exceed six months

The Committee further recommends that whenever an ordinance for amending the Act or bringing new legislation involving provisions for making the Rules is promulgated the rules should be prepared simultaneously so that there should not be wide gap between the Ordinance/Act and the Rules

The Committee further recommends that whenever any Act is amended it should be looked that the relevant rules and forms also amended so as to bring them in consonance with the change in the Act

2 Reference of Section under which Rules are framed

The Committee is of the view that giving of reference of the section in the margin of each rule under which the rule has been framed is essential to know under what precise authority each rule has been framed

The Committee reiterates the recommendations made in its earlier Reports that whenever rules are supplied to it the authority or the relevant section under which a particular rule or set of rules has/have been framed should also be mentioned in the margin of each rule

The Committee further recommends that whenever several amendments are made in a set of rules the same may be republished after incorporating all the amendments made from time to time. This recommendation of the Committee should be observed meticulously

3 (i) Supply of printed and up to-date corrected copies of the Rules

The Committee recommends that copies of the rules to be supplied to it by the Department should be in the printed form or in the form of Gazette in which they are published. If however, it is not possible for the Department to do so it should be ensured that the copies of the rules etc. are up to-date meticulously compared and duly corrected before supplying these to the Committee to save its valuable time in pointing out such mistakes

The Committee further recommends that it is the duty of the Department concerned to see that the rules supplied to the Committee are amended up to-date and ensure that the suggestions/recommendations/observations made by the Committee from time to time and agreed to by the concerned Department are implemented by the department and incorporated in the rules expeditiously

(II) Footnote in the Act and Rules

It came to notice of the Committee that sometimes it is laid down in the Act and Rules that such Act and Rules shall come into force on such date as may be specified in the notification by the State Government. The Committee is of the view that in such circumstances that date of commencement of the Act and Rules should invariably be given in the footnote so that legislators in particular and the public in general may come to know as to from which date the Act and Rules had come into force.

The Committee further recommends that whenever any amendment is made in an Act or Rules framed thereunder it should also invariably be stated in the footnote the reference of the Act or Rules by which amendment has been made.

4 Publishing the Act and Rules in Hindi

The Committee recommends that sincere efforts be made to publish the Acts and Rules in Hindi also so that the copies of the Acts and Rules may be available in Hindi easily at reasonable price.

5 Delay in laying Rules on the Table of the House

The Committee recommends that where the rules, orders etc. are required to be laid on the Table of the House before the State Legislature under any statute the same should be laid on the Table of the House as early as possible immediately following such publication in the Gazette so that the House may statutorily modify or annul such rules.

6 Implementation of recommendations of the Committee

As per prevailing practice and convention the Departments are required to furnish from time to time statements of action taken or proposed to be taken by them on the recommendations/observations of the Committee made in its Reports. But no time limit is fixed now. With a view to ensuring speedy implementation of their recommendations the Departments should implement the recommendations expeditiously and not later than a period of one year. If in any particular case it had not been possible to adhere to this time limit they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendations. Still the cases of delay continues to occur. The Committee can not but stress again that the Department should evolve suitable measures to streamline their procedure in order that the recommendations made by the Committee are implemented on top priority basis within a maximum period of one year.

The Committee recommends that the action on the outstanding recommendations and observations contained in its earlier reports should be given top priority and expedited. The Committee also recommends that when a recommendation is implemented by the Government the Department concerned should supply a copy of the notification containing the amendment in the rules alongwith the statement showing the action taken by the Government in the implementation of the recommendations/observations.

7 Availability of Copies of Acts and Rules to Public

The Committee is of the view that copies of all the Acts and Rules framed thereunder as amended up to date are generally not available in the Government Press for the use of the Public. The Committee therefore recommends that copies of all the Acts and Rules made thereunder should be kept up to-date by the Law Department/Department and should get the Acts and the Rules printed/reprinted from the Government Press so that these may be made available for sale to the Public at reasonable price.

Further Observations/Recommendations made by the Committee in respect of non-implementation of its earlier recommendations in respect of —

**1 THIRTY SECOND REPORT 2001-02
(IRRIGATION DEPARTMENT)**

The Haryana Canal and Drainage Rules, 1976 framed under the Haryana Canal and Drainage Act, 1974

The Committee had made certain observations/recommendations on the above Rules in its 32nd Report (2001-02) which was sent to the Department concerned for implementation thereof within a period of four months. The Committee in its 33rd Report (2002-03) also watched the implementation work relating to the aforesaid Rules and expected the Department to make necessary amendments in the Rules as per observations/recommendations of the Committee as contained in its 32nd Report. Despite the assurance given by the Departmental representatives the observations/recommendations were not implemented by the Department as the matter remained under consideration. The Committee again watched the implementation work in its 34th Report (2003-04). The Department concerned informed the Committee that preliminary/draft notification had been issued to amend the Rules 3, 5, 14, 20, 21, 45, 65, 71, 72, 34, 106, 114, 118, 119 of the aforesaid Rules. Corrigendum had been published in the Haryana Government Gazette dated 11-12-2003 regarding Rules 16, 25, 32, 46, 48, 49, 101 and 115 as per observations/recommendations of the Committee. The Department showed some practical difficulties in implementation of recommendations of the Committee made on Rules 6 and 34. The Committee in its 34th Report recommended to drop its recommendations on the aforesaid Rules 6 and 34 keeping in view the difficulties being experienced by the Department. However, expected that the Department would take up the matter seriously for notifying the amendments in the Rules as per observations/recommendations of the Committee at an early date under intimation to the Committee. The said Report was sent to the Department in March 2004 for implementation within a period of four months.

But the matter remained pending at the level of the Department. Several reminders were again sent by the Haryana Vidhan Sabha Secretariat. The Department did not reply soon. However, vide their letter dated 14th November 2005, the Department intimated that the matter is under consideration of the Government and the requisite reply will be sent in due course. Now the Department has again sent the copy of the Draft Notification dated 11th December 2003 for the perusal of the Committee.

The issue of implementing the observations/recommendations of the Committee as contained in its 32nd Report has been under consideration of the

Irrigation Department since the years 2001-02. This shows that the pace of implementation has been remained very slow. The Department was expected to seek extension of time for implementation. The Committee has been observing in its various reports that the Department should implement the recommendations expeditiously and not later than a period of one year. If in any particular case it had not been possible to adhere to the maximum time limit of one year, they should ask for extension of time from the Committee explaining the difficulties in implementation of recommendations.

During the course of oral examination the Departmental Representatives informed the Committee in its meeting held on 31st January 2006 as under —

“That a scheme for Water Users Association under CADA has been sponsored by the Central Government due to which the rules are not being notified finally. The Department thinks that all the formalities regarding the amendment of the Act in respect of Water Users Association and the recommendations of the Committee as contained in 32nd Report will be implemented simultaneously. In principle the Department has agreed to implement the observations/recommendations of the Committee as contained in its 32nd to 34th Report except Rule 6 and 34.”

The Committee expects the Department to be more efficient in such matters in future. The Committee observes that the copy of the final notification be supplied to the Committee at an early date after making amendment in the Rules as per observations/recommendations of the Committee within a period of three months.

2 THIRTY THIRD REPORT 2002-2003 (HOUSING DEPARTMENT)

(j) The Punjab Industrial Housing Rules 1956 framed under the Punjab Industrial Housing Act, 1956

The Committee had scrutinized the Punjab Industrial Housing Rules 1956 framed under the Punjab Industrial Housing Act 1956 and made certain observations/recommendations as contained in its 33rd Report. As per advice of the Industries Department the said report was sent to the Labour and Employment Department on dated 7-4-2003 to implement the observations/recommendations of the Committee made therein within a period of two months. A reminder was also sent to the Department to expedite the action in the matter. However, the Labour & Employment Department vide their letter dated 22-9-2003 informed the Vidhan Sabha Secretariat that the matter relates to the Housing Department and further correspondents in the matter may be made with the said Department.

In view of above communication a copy of the report was sent to the Housing Department on dated 28-10-2003 for implementation of observations/recommendations of the Committee made on the aforesaid Rules. A reminder was also sent on dated 3-12-2003 to expedite the action but no reply received.

At the time of oral examination of the Departmental representatives in the meeting held on 20-1-2004 it was assured by the Housing Department that necessary action will be taken in the matter on top priority basis and the Committee will be informed accordingly.

While sending the 34th Report to the Department the Committee hoped that the Department would take up the matter seriously and necessary amendments will be notified expeditiously and copies sent as per observations/recommendations of the Committee. On receipt of reminders the Department stated in their written reply dated 6-1-2006 as under —

"That all the observations/recommendations of the Committee on Subordinate Legislation as spelt out in its 33rd and 34th Report have been compiled in the form of Draft Rules in consultation with the Labour Commissioner Haryana. The Draft Rules amending the Punjab Industrial Housing Rules 1956 have been sent to the Legal Remembrancer for vetting. After the approval of the Hon'ble Chief Minister (being the Housing Minister) is obtained the Draft Rules will be published in the Official Gazette inviting objections/suggestions from the members of the public affected thereby within a mandatory period of 30 days from the day of its publication. It is only after the consideration of the objections/

suggestions and a decision taken thereon that the amendments in the *ibid* Rules of 1956 shall be formally notified "

During the course of oral examination held on 9-1-2006 the Departmental Representatives also assured the Committee to implement the observations/recommendations as contained in its 33rd and 34th Report expeditiously

The Committee observes that the copy of the final notification be supplied to the Committee at an early date after making amendments in the aforesaid Rules as per observations/recommendations of the Committee after following due procedure of Law

The Committee expects the Housing Department to be more efficient in such matters in future

(EDUCATION DEPARTMENT)**(ii) The Haryana Affiliated Colleges (Security of Service) Rules 1980 framed under the Haryana Affiliated Colleges (Security of Service) Act 1979**

The Committee had scrutinized the Haryana Affiliated Colleges (Security of Service) Rules 1980 framed under the Haryana Affiliated Colleges (Security of Service) Act 1979 and made certain observations/recommendations as contained in its 33rd report. The said Report was sent to the Department on dated 7-4-2003 to implement the observations/recommendations made therein with a period of two months. Several reminders were also sent to the Department to obtain the reply regarding latest position of the implementation of observations/recommendations of the Committee. But the Department did not reply soon. The Department however vide their letter dated 28th January 2004 stated as under —

That the proposal/draft for amendments in the aforesaid Rules has been sent to the Law Department Haryana for advice. Further necessary action will be taken as per Rules.

The oral examination of the Departmental representatives was also conducted in this regard in the meeting of the Committee held on 3rd February 2004 and the Departmental representatives assured the Committee that the observations/recommendations of the Committee will be implemented expeditiously. While sending the 34th Report to the Department in March 2004 the Committee hoped that the Department would take up the matter on top priority level and expected that the copies of the notification amending the aforesaid Rules as per observations/recommendations would be supplied to the Committee at an early date with a period of four months but no tangible result came out.

Several reminders were issued by the Haryana Vidhan Sabha Secretariat but none received. However during the course of oral examination held on 24th January 2006 the Departmental Representatives informed the Committee that as per observations/recommendations of the Committee made in respect of the Haryana Affiliated Colleges (Security of Service) Rules 1980 and the Haryana Affiliated Colleges (Security of Service) Rules 1993 as contained in its 33rd and 34th Report the draft amendment/proposal vetted by the Law Department will be put up to the Cabinet for approval and assured the Committee that both the above mentioned Rules will be consolidated in one set of Rules covering all aspects to avoid confusion.

The Committee expects the Education Department to implement the recommendations/observations of the Committee without further delay within a period of two months and hopes that the Department shall take care of this aspect in future.

(iii) The Haryana Affiliated Colleges (Security of Service) Rules, 1993 framed under the Haryana Affiliated Colleges (Security of Service) Act, 1979

The Committee had scrutinized the Haryana Affiliated Colleges (Security of Service) Rules 1993 framed under the Haryana Affiliated Colleges (Security of Service) Act 1979 and made certain observations/recommendations as contained in its 33rd report. The said Report was sent to the Department on dated 7-4 2003 to implement the observations/recommendations made therein with a period of two months. Several reminders were also sent to the Department to obtain the reply regarding latest position of the implementation of observations/recommendations of the Committee. But the Department did not reply soon. However the Department vide their letter dated 12-11 2003 stated that the action is being taken in the matter and this Secretariat will be informed after final decision.

The Haryana Vidhan Sabha Secretariat again requested the Department vide letter dated 3rd December 2003 to supply the latest information regarding implementation of observations/recommendations made on the aforesaid Rules.

The Department in their letter dated 28th January 2004 stated as under —

“That the proposal/draft for amendments in the aforesaid Rules has been sent to the Law Department Haryana for advice. Further action will be taken as per Rules.

The oral examination of the Departmental representatives was also conducted in this regard in the meeting held on 3rd February 2004 and the Departmental representatives assured the Committee that the observations/recommendations of the Committee would be implemented expeditiously. While sending the 34th Report to the Department in March 2004 the Committee hoped that the Department would take up the matter on top priority level and expected that the Department would supply the copies of the notification amending the relevant rules implementing the observations of the Committee at an early date but no tangible result came out.

Several reminders were issued by the Haryana Vidhan Sabha Secretariat but no reply received. However during the course of oral examination held on 24th January 2006 the Departmental Representatives informed the Committee that as per observations/recommendations of the Committee made in respect of the Haryana Affiliated Colleges (Security of Service) Rules 1980 and the Haryana Affiliated Colleges (Security of Service) Rules 1993 as contained in its 33rd and 34th Report the draft amendment/proposal vetted by the Law Department will be put up to the Cabinet for approval and assured the Committee that both the above mentioned Rules will be consolidated in one set of Rules covering all aspects to avoid confusion.

The Committee expects the Education Department to implement the recommendations/observations of the Committee without further delay within a period of two months and hopes that the Department shall take care of this aspect in future.

3 THIRTY FOURTH REPORT 2003 2004
(URBAN DEVELOPMENT DEPARTMENT)

(i) The Haryana Municipal Drainage and Sanitation Bye Laws 1977 framed under the Haryana Municipal Act, 1973

The Committee had scrutinized the above Bye Laws in the year 2003 04 and made the observations/recommendations as contained in its 34th Report which was sent to the Urban Development Department in March 2004 for implementation thereof within a period of four months But no reply received from the Department

Several reminders were sent by the Haryana Vidhan Sabha Secretariat However the Department informed vide their letter dated 24th November 2005 that the matter is under consideration

During the course of oral examination held on 8th February 2006 the Departmental Representatives informed vide their letter dated 8-2 2006 that the draft proposal containing the observations/recommendations of the Committee as mentioned in 34th Report (2003 2004) with regards to the Haryana Municipal Drainage and Sanitation Bye laws 1977 has already been prepared and publication of the same is under active consideration of the Government and is likely to be published in near future The Departmental Representatives also assured the Committee that observations/recommendations of the Committee made on the above Bye Laws will be taken up seriously and the same will be implemented after following the due procedure of law latest by 31st March 2006

The Committee expects the Urban Development Department to pursue and finalise the matter accordingly

REVENUE DEPARTMENT**(ii) The Haryana Public Premises and Land (Eviction and Rent Recovery) Rules 1973 framed under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972**

The Committee had scrutinised the aforesaid Rules and made certain observations/recommendations thereon as contained in its 34th Report which was sent to the Revenue Department in March 2004 for implementation of the observations/recommendations within a period of four months. But no reply received from the Department. A reminder was sent to the Department on 26th August 2004. However, an interim reply received in the Haryana Vidhan Sabha Secretariat on 19th November 2004 wherein it was intimated that the comments of the Commissioners/Deputy Commissioners have been sought in the matter. Further action will be intimated on receipt of comments. On receipt of reminder dated 1st September 2005 the Department again sent the similar interim reply on 13th September 2005. After that no reply received from the Department in the matter.

However, the Departmental Representative who appeared before the Committee in its meeting held on 14th February 2006 in view of the communication received from the Financial Commissioner and Principal Secretary to Government Haryana. Revenue Department informed the Committee that the observations/recommendations of the Committee made on the Haryana Public Premises and Land (Eviction and Rent Recovery) Rules 1973 as contained in the 34th Report are under active consideration of the Government and the same have been submitted to the Chief Minister for approval and further necessary action in the matter will be taken up expeditiously. The Department agrees with the recommendations of the Committee in principle and the requisite reply/notification after amending the aforesaid Rules will be sent to the Committee shortly.

In view of the reasons stated above, the Committee expects the Revenue Department to implement the observations/recommendations of the Committee within a period of six months.

CO-OPERATION DEPARTMENT

(iii) The Haryana Cooperative Societies Rules, 1989 framed under the Haryana Cooperative Societies Act, 1984

The Committee had scrutinised the Haryana Cooperative Societies Rules 1989 framed under the Haryana Cooperative Societies Act 1984 in the year 2003-04 and made certain observations/recommendations thereon. The 34th Report containing various observations/recommendations was sent to the Department on 17th March 2004 for implementation of observations/recommendations within a period of four months. A reminder was sent to the Department on 26.8.2004 to know the latest position in the matter. However, on 26.8.2004 and 31.8.2004 a reply containing nil information was received in Haryana Vidhan Sabha Secretariat. A reminder was sent again to the Department on 22.9.2004. But no reply received in Haryana Vidhan Sabha Secretariat during one year. Another reminder to know the position in the matter was again sent on 1.9.2005 but the Department did not reply soon. However, on 21.9.2005 an interim reply received stating that the matter is under action. On 17.2.2006 a reply from the Department received which was placed before the Committee in its meeting held on 21.2.2006 vide which the Committee was informed that the matter regarding implementation of recommendations/observations of the Committee in its 34th Report is under consideration of the Department as the draft notification containing the recommendations of the Committee has been sent to the Law Department for vetting vide their letter dated 10th January 2006. The Committee was further informed that as soon as the draft notification is received from the Law Department, the necessary notification in accordance with the rules would be issued at an early date.

The above reply shows that the process of implementation of recommendations was very slow and the Department did not initiate action promptly. The Departmental Representatives offered some suggestions with regard to amendment in Rules 50, 57, 75, 77, 78, 82, 83, 102 and 110 of the Haryana Co-operative Societies Rules 1989. Keeping in view the difficulties explained by the Department, the Committee accepted the proposals given by the Department and desired that necessary amendment in the Rules may be carried out as discussed so that the suggestions given by the Department could also be incorporated in the proposal/draft notification for further necessary action. The Committee also desired that the necessary action for implementation of recommendations/observations of the Committee as contained in its 34th Report and also suggested by the Department in its meeting held on 21st February 2006 be implemented expeditiously and not later than 6 months.

The Committee expects that timely action in the matter will be taken by the Department concerned and the Committee be informed accordingly.

(VI) Scrutiny of Rules, Bye Laws and observations/ recommendations thereon —

1 Scrutiny of the Haryana Municipal (Sanitation and Public Health) Bye Laws 1976 framed under the Haryana Municipal Act, 1973

The Committee scrutinised the above Bye-Laws and made the following observations/recommendations thereon —

General — The observations/recommendations made by the Committee in its meetings held on 27-4-2005, 2-5-2005, 12-5-2005, 19-5-2005, 26-5-2005 and 3-6-2005 were sent by the Haryana Vidhan Sabha Secretariat to the Urban Development Department vide letter dated 5th July 2005. But the reply to the observations/recommendations made by the Committee in its several meetings and sent to the Department on 5th July 2005 did not receive. The Departmental representatives during the course of oral examination were also requested to look into the matter and supply the requisite reply to the Committee expeditiously. The proceedings of meeting dated 8-2-2006 were also sent to the Department vide letter dated 17-2-2006 to obtain the information/reply but despite the assurance given by the Departmental representatives no reply received. A reminder was also sent on 27-2-2006 to obtain the requisite information but no reply received till the drafting and finalisation of this Report. It shows that the Department did not take up the matter seriously.

Rule—4

Providing Living accommodation for sweepers on premises in certain cases

“4 (1) It shall not be lawful to erect a building in which ten or more latrines are required to be constructed without providing in the building suitable living accommodation for sweepers intended to be employed whole time for cleansing such latrines. The Executive Officer or Secretary as the case may be shall determine the number and size of rooms to be provided for sweepers and upon completion of the building may determine the number of sweepers to be employed for each building and may require such number of sweepers to be employed.

(2) This Bye Law shall not apply to tenements designed for and intended to be let out on flat system and containing latrines with flush system.

Observations of the Committee

The Committee would like to know whether the provisions of this Bye Law are still applicable ?

Despite reminders the Department concerned did not reply Hence the Committee could not make any specific recommendation However the Committee expects that the Department would supply the information soon

Rule—5

5 Where any existing building such as hotel club hostel educational institution or hospital has ten or more latrines the Executive Officer or Secretary as the case may be may required the construction on the premises of suitable living accommodation for sweepers intended to be employed whole-time in cleansing such latrines The Executive Officer or Secretary as the case may be may determine the number and size of rooms to be provided for such sweepers and upon completion of the new construction may determine the number of sweepers to be employed for such building and may require such number of sweepers to be employed

Executive Officer or Secretary may require living accommodation for sweeper in a building with ten or more latrines

Observations of the Committee

The Committee would like to know whether any provision in this Bye Law may be made to inspect the building regularly to check cleanliness so that responsibility in case of default may be fixed

The Department concerned did not reply So the Committee could not make any specific recommendation on the above Bye Law However the Committee hopes that the Department would supply the requisite information soon

Rule—6

6 The Executive Officer or Secretary or any other officer authorised by a Committee may at any time by day or by night after giving such notice of his intention as shall in the circumstances appear to him to be reasonable inspect any place in which any dangerous disease is reputed or suspected to exist to ascertain and deremine what measures should be taken to prevent the spread of the said disease beyond such place

Any place may be inspected at any time for purpose of preventing spread of dangerous disease

Observations/recommendations of the Committee

The Committee recommends that in line 5 of this Bye Law for the word reputed substitute the word Reported to convey the correct sense

The Department concerned did not reply However the Committee feels that the above recommendation is necessary to be carried out to make the Bye Law grammatically correct

Rule—7

Child liable to
carry dangerous
disease may be
ordered not to
attend school

"7 A person having the care of a child who is or who has been suffering from or has been exposed to infection of a dangerous disease shall not after receiving a notice from the Municipal Medical Officer of Health that the child is not to be sent to school permit the child to attend school until he has obtained from the Medical Officer of Health a certificate for which no charge shall be made that in his opinion the child may attend school without undue risk of communicating the disease to others

Observations/recommendations of the Committee

The Committee would like to know whether the Government/ Department has any objection if in the second line of this Bye Law for the words a dangerous the words an infectious or dangerous are added to make the Bye-Law more explicit

The Committee would also like to know the age of the child which is covered in the definition of child

The Department did not reply The Committee recommends that the observations/recommendations made above be implemented and the information sought by the Committee be sent at the earliest

Rule—8

Provisions as to
library books

"8 (1) A person who knows that he is suffering from a dangerous disease shall not take any book or cause any book to be taken for his use or use any book taken from any public or circulating library

(2) A person shall not permit any book which has been taken from a public or circulating library and is under his control to be used by any person whom he knows to be suffering from a dangerous disease

(3) If a book taken from a public or circulating library is to the knowledge of the person who has so taken it exposed to infection from a dangerous disease he shall not return the book to the library without giving notice to the person in charge thereof that it has been so exposed to infection

(4) On receiving a notice under clause (3) the person in charge of the library shall cause the book to be disinfected and returned to the library or shall cause it to be destroyed "

Observations/recommendations of the Committee

The Committee would like to know as to whether before the words a dangerous disease the words "an infectious or" may be added to make this Bye Law more clear

The Committee would also like to have the details of existing of public or circulating libraries in the Municipalities in the State of Haryana

The Committee would further like to know as to whether the provisions of this Bye Law are invoked in practice?

The Department did not reply The Committee however recommends the observations/recommendations of the Committee made above be implemented and the requisite reply be sent to the Committee at an early date

Rule—9

9 Every person having the charge or control of any place where the body of a person who has died while suffering from a dangerous disease is lying shall take such steps as may be reasonably practicable to prevent person coming unnecessarily into contact with proximity to the body"

Avoidance of contact with body of person who suffered from dangerous disease

Observations/recommendations of the Committee

The Committee would like to know as to whether there are mortuaries in all the municipalities of the State?

The Committee recommends that in line three of this Bye Law before the word "dangerous" add the words "an infactions or" to make the rule more clear

The Department did not reply The Committee however feels that the recommendation of the Committee made above be implemented and the reply asked for be supplied soon to the Committee

Rule—10

"10 (1) The special measures to be taken and directions to be given by a Committee or Executive Officer under any of the provisions contained in sections 218 to 225 may include any of the following matters namely —

Special measures

- (a) the evacuation of any infected building used as a dwelling or of any part thereof by the person or persons residing whether habitually or temporarily thereon provided sufficient accommodation for all persons affected is available or is provided elsewhere
- (b) compulsory vaccination or preventive inoculation of persons entering residing in or leaving specified areas
- (c) the examination by a medical officer of health of persons and if necessary the disinfection of the clothing

bedding or other articles suspected of being infected belonging to persons either arriving from outside a specified area or residing in any building adjacent to any infected building in that area the recording of the address of such persons and the daily presentation of such persons for medical examination at a specified time and place for a period not exceeding ten days

- (d) the prohibition either generally or by special order in any individual case of assemblages consisting of any number of persons exceeding fifty in any place whether public or private or in any circumstances or for any purpose
- (e) the closure for a period to be specified of any theatre cinema house or other place of entertainment
- (f) the closure of an educational institution by a written notice to the authorities in charge of such institution for such period as is specified in the notice
- (g) restrictions on the export from or import into or transport within a specified area of any goods or articles exposed to and likely to retain infection from a dangerous disease or likely to infect persons with any such disease or the destruction of any such goods or the articles
- (h) the examination unloading and disinfection if necessary at any place within the municipal area of any consignment of grain or other foodstuffs cotton or clothing imported into the municipal area by road or rail
- (i) closure of all or any existing markets and bazars including cattle farms and appointment of special places where markets or bazars may be held

(2) The Committee or Executive Officer may in his direction give compensation to any person who sustains substantial loss by the destruction of any property under this Bye Law but except as followed by the Committee or Executive Officer as the case may be no claim for compensation shall lie for any loss or damage caused by the exercise of the powers specified herein "

Observations/recommendations of the Committee

The Committee would like to know as to how many cases of evacuation of infected buildings took place in the Municipalities in the State of Haryana during the period of last two years ?

The Committee would also like to know as to whether any case of refusal to allow inspection of building or place by the Committee or Executive Officer or authorised person took place in the Municipalities in the State of Haryana during the period of last two years ?

The Committee would further like to know as to whether any vaccination programme as a preventive measure from the infectious or dangerous disease was

implemented in the Municipalities in the State of Haryana during the period of last two years

The Committee would like to know as to whether the penalty for the violation of provisions of these Bye laws is sufficient ? If not what efforts/steps were made/taken by the Department in this regard ?

The Department did not reply The Committee however feels that the recommendations made above be implemented by the Department concerned and the information as asked for be supplied to the Committee soon

Rule—11

11 (1) No person shall without the written sanction of the Municipal Medical Officer of Health retain in any place other than a public mortuary for more than twelve hours the body of any person who has died while suffering from a dangerous disease

Disposal of dead bodies in certain cases

(2) If any such body not being a body kept in a public mortuary remains undisposed of for more than twelve hours without sanction as aforesaid or if the dead body of any person is retained in any building so as to endanger the health of the inmates thereof or of an adjoining or neighbouring building a Magistrate may on the application of the Executive Officer or Secretary order the body to be removed and disposed of within a specified time and on such order being made unless the relatives or friends of the deceased person undertake to dispose or do cause the body to be disposed of within the time specified in the order the Executive Officer or Secretary shall cause the body to be disposed of

(3) Any expenses reasonably incurred by the Executive Officer or Secretary in so doing shall be paid by any person legally liable to pay the expenses of the disposal of the body unless the Executive Officer or Secretary waives recovery on the grounds of poverty”

Observations of the Committee

The Committee would like to know as to whether any other action besides disposal of dead body at the expenses of person legally liable can be taken against the concerned person ?

The Department did not reply The Committee however desires that the information be supplied to the Committee soon

Rule—12

“12 Every owner or person having control of a place used for burying burning or otherwise disposing of the dead shall cause the same to be registered in a register which shall be kept by an Officer

Registration of burial places etc

of a Committee as authorised by the Executive Officer or Secretary with this duty and shall deposit in the Municipal Office at the time of registration a plan of the said place showing the extent and boundaries thereof bearing the signatures of a licensed architect or engineer in token of its having been prepared by or under the supervision of such architect or engineer

Observation of the Committee

Whether any minimum area has been prescribed for the registration of a burial/cremation place owned by a owner or person having control of such places ?

The Department did not reply The Committee however desires that the information be supplied to the Committee soon

Rule—13

Provisions of new places for disposal of the dead

13 If the existing places for the disposal of dead bodies shall at any time appear to be insufficient or if any such place is closed under section 116 the Executive Officer or Secretary shall with the sanction of the Committee provide other fit and convenient places for the said purposes and shall cause the same to be registered in the register kept under Bye law 12 and shall deposit in the municipal office at the time of registration of each place so provided a plan thereof showing the extent and boundaries of the same and bearing the signatures of the Municipal Engineer

Observation/recommendation of the Committee

Whether any performa of Register is required to be prescribed for the registration of burial places ?

The Department did not reply The Committee feels that the Department should sent the comments soon to the Committee

Rule—14

Executive Officer or Secretary may sanction reopening of places which have been closed for disposal of dead bodies

"14 If after personal inspection the Executive Officer or Secretary is at any time of the opinion that any place formerly used for the disposal of the dead bodies which has been closed under section 116 or under any other law or authority is by lapse of time or otherwise no longer dangerous to health and may without risk of danger be again used for the said purpose he may make a report in that behalf to the Committee which may direct that such place be reopened for the disposal of the dead Every order so made shall be noted in the register kept under by law 12 "

Observation/recommendation of the Committee

The Committee would like to know as to whether the Department has any objection in making a provision for displaying a notice on the conspicuous part of the building of Municipal

Committee regarding sanction/order for re opening of places which had been closed for disposal of dead bodies ?

The Department did not reply

The Committee recommends that the above observation/recommendation may be implemented by the Department soon under intimation to the Committee

Rule—15

15 No person shall—

- (a) retain a corpse on any premises without burying burying or otherwise lawfully disposing of the same for so long a time after death as to create a nuisance
- (b) carrying a corpse or part of a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk of infection or injury to the public health as the Executive Officer or Secretary may by public notice from time to time think fit to require
- (c) except when no other route is available carry a corpse or part of a corpse along any street along which the carrying of corpses is prohibited by a public notice issued by the Executive Officer or Secretary in this behalf
- (d) remove a corpse or part of a corpse which has been kept or used for purposes of dissection otherwise than in a closed receptacle or vehicle
- (e) whilst conveying a corpse or part of a corpse place or leave the same on or near any street without urgent necessity

Acts prohibited in connection with disposal of dead bodies

Observation/recommendation of the Committee

Will it not be desirable to make a stringent provision for the violation of the Bye law ?

The Department did not reply

The Committee feels that the observation/recommendation of the Committee may be implemented soon and the Committee be informed accordingly

Rule—16

16 (1) No person shall bury or cause to be buried the body of any person or being the owner or person incharge of a burial ground shall permit a body to be buried in a burial ground otherwise than in accordance with the following conditions —

Disposal of dead bodies

- (a) the body shall be interred within six hours after its arrival at the burial ground which may be extended to eight hours in special cases where delay is due to rockiness of the ground
- (b) the body shall not be buried in any grave in which another body has been interred during such previous period as may be determined by the Executive Officer or Secretary
- (c) the grave shall not be less than six feet deep if not constructed of masonry or four feet deep if constructed of masonry and the body shall be buried not less than two feet from any other body interred during the last ten years

(2) No person shall without the sanction of the Executive Officer or Secretary exhume a dead body or re open a grave

(3) No person shall burn the dead body of any person or cause a dead body to be burnt or being the owner or person in charge of a burying place permit a dead body to be burnt otherwise than in accordance with the following conditions namely —

- (a) the body shall be burnt within six hours after its arrival at the burning place
- (b) no part of the body shall remain unconsumed unless in any case the rules or custom of religion demand that the whole or a portion of corpse shall be thrown into the river
- (c) no part of the body except the "ash" shall be removed from the burning place until it is completely reduced to ashes

(4) No person shall remove wood coal or other fuel that has been employed in the pyre from the burning ground and the owner or person in charge of the ground shall see that all such wood coal or other fuel is reduced to ashes

(5) Nothing in this Bye law shall apply to the Christian cemeteries regulated under order of the Central Government

Observations/recommendations of the Committee

The Committee recommends that for the word 'body' the words 'dead body' may be substituted wherever occurring in this Bye law

What is the normal period after which a dead body may be buried in a grave in which another dead body had been interred ?

The Department did not reply

The Committee recommends that the observations/ recommendations of the Committee be implemented soon and the requisite information may be supplied to the Committee accordingly

Rule—17

17 All house-holders/tenants of commercial residential and other building shall place garbage cans outside their premises from which garbage may be collected by municipal health authority

Provision for
garbage cans

Observation of the Committee

The Committee would like to know as to whether this provision of placing the garbage cans outside the premises by the owners/ tenants is applied in practice ?

The Department did not supply the desired information

The Committee observes that the requisite information be supplied to the Committee soon

Rule—18

18 Any person who commits or abets the commission of a breach of any of these bye-laws shall on conviction by a Magistrate be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees and if the breach is continuing breach with a further fine of ten rupees for every day after the first during which the breach continues

Observation/recommendation of the Committee

The Committee observes that the penalty for the violation of provisions is at the lower side The department should get the provisions of the Act amended to enhance the penalty for the violation of the Rules/Bye laws

The Department did not supply the desired information

The Committee recommends that the recommendation of the Committee be implemented soon and the Committee be informed accordingly

2 Scrutiny of the Punjab Ayurvedic and Unani Practitioner's (General) Rules 1964 framed under the Punjab Ayurvedic and Unani Practitioner s Act, 1963

The Committee scrutinised the Punjab Ayurvedic and Unani Practitioner s (General) Rules 1964 framed under the Punjab Ayurvedic and Unani Practitioner s Act, 1963 and made the following observations/recommendations thereon —

General Observations/recommendations of the Committee

1 The Committee observes that no qualification has been mentioned/ prescribed in the Punjab Ayurvedic and Unani Practitioner s Act 1963 and the Rules framed thereunder as applicable to the State of Haryana for the Chairman Vice Chairman and Members of the Board of Ayurvedic and Unani System of Medicines Haryana who are nominated/appointed by the State Government Generally Registered Medical Practitioners are nominated as Chairman/Members However the Committee feels that a provision should be made in the Act that only such person can be nominated as Chairperson/Vice Chairperson/Member of the Board if he/she possesses qualification as specified in schedule I of the Act ibid

2 The Committee was informed that at present one Registrar One superintendent Two Assistants One Accountant and One Peon are working in the Board The Committee feels that the present infrastructure seems to be insufficient to serve the Board properly and to carry out the purposes of the Act and the Rules in letter and spirit The Committee is of the view that the Board may consider to increase the strength of the working staff to bring more efficiency in the functioning of the Board

3 The Committee observes that unregistered and unqualified persons are also practising as Medical Practitioners especially in the Villages and Towns in the State of Haryana and they are playing with the lives of the people by misusing the profession The Committee recommends that checking should be made from time to time so that criminal cases against the unregistered/unqualified Medical Practitioners may be got registered/initiated for prosecution

4 The Committee was informed that fee for registration of name as an Ayurvedic/Unani Practitioner at present is Rs 150/ The Committee feels that the above registration fee is at lower side The Committee recommends that a provision may be made in the Rules that fee will be charged as fixed/notified by the Government from time to time so that the amendment in the Rules with regard to enhancement of registration fee is not made time and again

5 The Committee observes that the existing penalty for contravention of provision of the Punjab Ayurvedic and Unani Practitioner s Act 1963 is insufficient to curb the quacks The Committee recommends that the Department should follow initiate the process of amendment of the above Act on the pattern of Government of India so that effective steps may be taken to punish the illegal Medical Practitioners

in the State

Rule—2

Definitions

"2 In these Rules unless the context otherwise requires —

- (a) Act means the Punjab Ayurvedic and Unani Practitioners Act 1963
- (b) * * _____ *
- (c) Chairman means the Chairman of the Board
- (d) Committee means a Committee appointed by the Board
- (e) Government means the Government of the State of Punjab
- (f) * * _____ *
- (g) * * _____ *

Observations/recommendations of the Committee

The Committee recommends that the definition of 'Chairman' given in rule 2 (c) may be substituted as under —

'Chairman' means the Chairman of the Board of Ayurvedic and Unani System of Medicines, Haryana

The Committee recommends that the definition of 'Committee' mentioned in Rule 2(d) may be substituted as under —

'Committee' means a Committee appointed by the Board of Ayurvedic and Unani System of Medicines, Haryana

The Committee recommends that the definition of 'government' mentioned in Rule 2(e) may be substituted as under —

Government means the Government of the State of Haryana

The department in their written reply stated as under —

The case will be put up in the coming meeting of the Board to make necessary amendment in rules from Govt. as suggested by the Committee "

The Committee recommends that the rule be amended as per observation/recommendations of the Committee made above

Registration of
Practitioners

Rule—3

"3 (1) Every person entitled to have his name entered in Part I of the Register under sub-section (1) of section 15 or in Part II of the Register under sub-section (3) of the aforesaid section shall if he is desirous of having his name entered in Part I or Part II of the Register as the case may be make an application to the Registrar in the form given in Appendix A along with a fee of not less than five rupees. He shall also furnish along with his application such documents as may be necessary to establish his claim for being registered in Part I or Part II as the case may be

(2) to (4) * * * *

Observations/recommendations of the Committee

The Committee recommends that the fee for registration of Practitioners may be enhanced suitably

The department in the written reply stated as under —

"The case will be put up in the coming meeting of the Board to make necessary amendment in rules from Government as suggested by the Committee "

The Committee recommends that the rule be amended as per recommendation of the Committee made above

Rule—4

Change of
address to be
intimated to
Registrar

"4 [Section 14 (3) and (15) (1)] (1) Every Registered Practitioner shall send to the Registrar immediate notice of any change in his address and shall also promptly answer all such enquiries as may be made from him by the Registrar in regard thereto in order that his correct address may be entered in the Register

(2) A Registered Practitioner who changes his name shall immediately inform the Registrar about his changed name and shall satisfy the Registrar that he has already notified the fact of the change of his name in a newspaper having a wide circulation in the area in which he carries on his business and published in the regional language of that area. The Registrar shall on being so satisfied correct the Registering of the name as on being required to do so by the Registered Practitioner make necessary correction in the Registration Certificate "

Observations/Recommendations of the Committee

The Committee would like to know the provision/authority under the Act which empowers the Registered Practitioner to change his name ?

If so, would it not be desirable to publish such name in the leading newspapers in English and Hindi instead of regional language

The department in their written reply stated as under —

"The Registrar is empowered to change the name of any Registered Practitioner under rule 4 of the Punjab Ayurvedic and Unani Practitioners Act 1963

As suggested by the Committee, the case will be put up in the next meeting of the Board and necessary action will be taken as per decision taken by the Board.

The Committee observes that there is no such provision in the Punjab Ayurvedic and Unani Practitioners Act, 1963 which authorises the Registrar to change the name of any registered practitioner. Therefore, the rule 4 of the Punjab Ayurvedic and Unani Practitioners (General) Rules, 1964 which empowers the Registrar to change the name of the Practitioner is beyond the purview of law. The Committee recommends that if the Board thinks it appropriate to give such power to the Registrar, such provision should be made in the Act so that the rule may be in consonance with the provisions of the Act.

Rule 5

"5 [Section 14(4)(1)] (1) A Registered Practitioner who obtains any further degrees diplomas certificates or other qualifications in Ayurvedic System or Unani System or other recognised medical degrees diplomas or certificates and is desirous of getting the same entered in the Register shall make an application to Registrar about the same along with a fee of five rupees. He shall also furnish along with his application the original degrees diplomas or certificates as the case may be on the basis of which the entry in the Register is sought

Entered in
Register
regarding
further
qualifications

(2) The Registrar on receipt of the application under sub-rule(1) and after making such further enquiry as he may deem proper is satisfied that the applicant is entitled to have entered in the Register the degrees diplomas or certificates as the case may be obtained by him he shall do so. If he is not so satisfied he will refer the application.

The department has decided that no application shall be passed without giving the applicant an opportunity of being heard.

(3) The applicant whose application is not rejected may get his Registration Certificate amended from the Registrar on the basis of the entries made in the Register under sub-rule(2).

Observations/recommendations of the Committee

The Committee would like to know the name of the institution in Haryana which issues a Degree in Unani System of Medicines. The Committee recommends that the fee of five

rupees for making entries in the Register regarding further qualification may be enhanced suitably

The Committee also recommends that in rule six of sub-rule(2) of this rule after the word ' application', add the words "with reasons to be recorded in writing" to make the rule more clear

The Department in their written reply stated as under —

"There is no college in the State of Haryana which issues a degree in Unani System of Medicine As suggested by the Committee the case for enhancement of fee for making entries in the register for further qualification will be put up in the next meeting of the Board and after taking the approval of the Board, the case will be sent to the State Govt for amendment

As suggested by the Committee, the case will be put up in the next meeting of the Board, and after taking approval of the Board, the case will be sent to the State Govt. for amendment "

The Committee recommends that the rule with regard to the enhancement of fee for making entries in the register for further qualification be amended suitably and other recommendation be also adopted by amending the rule as per recommendation of the Committee and accepted by the department

Rule 6

Issue of duplicate
Registration Certificate

"6 [Section 15 and 54(1)] If a Registration Certificate is lost destroyed or mutilated the Registrar shall on being satisfied about the same issue a duplicate Registration Certificate on the application of the practitioner in whose favour the certificate which has been lost destroyed or mutilated was issued A fee of Two rupees shall be paid by the registered practitioner for the issue of a duplicate Certificate "

Observations/recommendations of the Committee

The Committee recommends that the fee for issuing the duplicate Registration Certificate may be suitably enhanced

The Department in the written reply stated as under —

"As suggested by the Committee, the case will be put up in the next meeting of the Board and after taking approval from Board, the case will be sent to State Govt. for amendment "

The Committee recommends that the rule be amended suitably as recommended by the Committee and proposal

accepted by the Department

Rule 9

"9 [Section 14(5) 16(2) and 54(1)] Any practitioner whose name is removed from the Register by the Registrar under sub-section (5) of section 14 or whose name has been prohibited to be entered in or is removed from the Register by the Board under sub-section (1) of section 16 and who is desirous of getting his name entered or re-entered as the case may be under the proviso to sub-section (5) of section 14 or under sub-section (2) of section 16 shall make an application addressed to the Chairman

Re-entry of
name practition
er removed
under section
14 or 16

(2) Each such application shall be in writing stating the grounds on which the application is made and shall be accompanied by a fresh registration fee of twenty five rupees. It shall also be accompanied by a Certificate of two Registered Practitioners regarding the identity of the applicant."

Observations/recommendations of the Committee

The Committee would like to know as to whether the Government/Department have any objection to prescribe the Form of application for fresh registration/re-entry of name or practitioner?

The Committee observes that no time period has been prescribed for re-entry of name of practitioner for registration

The Committee would like to know as to whether any time period may be fixed for the above purpose in the rule itself?

Will it not be desirable to revise the registration fee?

The Department in their written reply stated as under —

'The Board has no objection to prescribe the form of application for fresh registration/re-entry of name or practitioner

Before removing the name of any registered practitioner, an opportunity along with personal hearing is given to concerned practitioner under Section 18 of the Punjab Ayurvedic and Unani Practitioners Act, 1955. He can make appeal to the Board in 60 days against the order of the Registrar

As suggested by the Committee, the case will be put up in the next meeting of the Board and after taking approval from Board, the case will be sent to State Govt for necessary amendment.'

The Committee recommends that the rule be amended suitably as recommended by the Committee and proposal accepted by the Department.

Rule—10**Publication
of List of
Practitioners**

"10 [Sections 26 and 54 (1)] — (1) The list of practitioner referred to in sub section (1) of section 26 shall be posted at a conspicuous place outside the office of the Board and the fact of its having been printed and so posted shall be given adequate publicity through such newspaper or newspapers having wide circulation in the State of Punjab as the Board may decide

(2) In the case of practitioners registered in Part II of the Register the list shall instead of indicating the qualifications of a practitioner indicate the system in which he is carrying on his practice

Observations/recommendations of the Committee

The Committee recommends that in line two, for the word 'referred', substitute the word 'referred

The Committee further recommends that in line six for the word "Punjab", substitute the word "Haryana"

The Committee would like to know as to whether the provisions of this rule are implemented in letter and spirit

The department in their written reply stated as under —

'As suggested by the Committee, the case will be put up in the next meeting of the Board and after taking approval from Board case will be sent to Govt for amendment

As suggested by the Committee, the case will be put up in the next meeting of the Board, and after taking approval from Board case will be sent to Govt for amendment

Yes the provisions of this rule are being implemented in letter and spirit

As discussed with the Department Representatives at the time of oral examination the Committee is of the view that it is not feasible to display the register containing names of all practitioners at a conspicuous place outside the office of the Board. Therefore the rule be amended making a provision of inspection of register in lieu of some fee prescribed for inspection of record/register. Moreover a website to this effect may also be prepared. The Committee recommends that the Department/Board may take further action as it think fit in the matter to carry out the purposes of the Act

Rule—11

"11 [Sections 24 of 54 (2) (i)] — (1) The fees for the supply of certified copies or any order passed by the Board or the Registrar or or any entry in the Register shall be charged at the rate of 75 paise per 100 words or fraction thereof subject to a minimum of one rupee

Fees for supply
of certified
copies

Provided that if the applicant desires to have a copy urgently he will have to pay double the amount of fees calculated as above subject to a minimum of two rupees

(2) In the case of urgent application the copy sought for shall be ready for the delivery to the applicant by the close of office hours of the day following that on which the application is made

Observation/recommendation of the Committee

The Committee observes that the fee for supply of certified copies of any order passed by the Board or the Registrar or of any entry in the Register is very meagre. The Committee therefore recommends that it may be suitably revised/enhanced

The department in their written reply stated as under —

The case for enhancement in fee for supplying certified copies will be put in the next meeting of the Board as suggested by the Committee. After taking approval of the Board, case will be sent to Govt. for making necessary amendment

The Committee recommends that the rule be amended as per observation of the Committee

Rule—12

12 [Sections 18 and 54 (2) (g)] — (1) Every appeal preferred to the Board under section 18 shall be addressed to the Chairman of the Board and shall be accompanied by a fee of

Appeals

- (a) five rupees if it is any appeal against the order of the Registrar passed against the appellant
- (b) twenty rupees if it is an appeal against the order of the Registrar passed against any person other than the appellant

(2) Every appeal shall be deemed to have been duly presented if the same is sent by registered post or is delivered

personally or through an agent authorised in writing by the appellant, in the office of the Board

(3) Every appeal shall be accompanied by a certified copy of the order appealed against and shall contain the following particulars

- (a) the date of the order against which the appeal is preferred
- (b) the grounds of appeal briefly but clearly set out

(4) Every appeal shall be signed by the appellant and verified in the manner laid down in the Code of Civil Procedure 1908 for the verification of grounds of appeal

Observation/Recommendation of the Committee

The Committee observes that the fee for filing the appeal is very meagre. The Committee therefore recommends that it may be suitably enhanced.

The department in their written reply stated as under —

The case for enhancement in fee will be put up in the next meeting of the Board for making necessary amendment in the rules as suggested by the Committee.

The Committee recommends that the rule be amended suitably.

Rule—13

Procedure of hearing appeals

13 [Section 18 and 54 (2) (g)] — (1) If the appeal is not preferred in the manner laid down in the preceding rule or is not accompanied by the prescribed fee it shall be summarily rejected.

(2) If the appeal is not rejected under sub-rule (1) the Board shall decide the same after giving the appellant and where the appeal is against the order of the Registrar passed in relation to any person other than the appellant, after giving such person an opportunity of being heard. Every decision of the Board shall be communicated to the Registrar who shall give effect to the same.

Observations/recommendations of the Committee

Whether the fate of the appeal is communicated to the appellant in case none is present or his behalf?

Whether some time period for implementation of decision of the Board is required to be prescribed?

The department in their written reply stated as under —

"The fate of appeal is communicated to the appellant in case none is present on his/her behalf

Case will be put up in the next meeting of the Board as suggested by the Committee "

The Committee recommends that the rule be amended suitably as per observation of the Committee

Rule—17

17 [S 54 (1)] — For Carrying out the purposes of the Act the Board may appoint such Committee consisting of such of persons as it may deem fit Each Committee as may be assigned to it by the Board

Appointment
of Committees

Provided that nothing in this rule shall be deemed to empower a Committee so appointed to exercise such functions as are specifically mentioned in the Act to be performed by the Board or any other authority

Observation/recommendation of the Committee

The Committee observes that this rule is not properly worded The Committee therefore recommends that it may be recast suitably to convey clear meaning

The department in their written reply stated as under —

Case will be put up in the next meeting of the Board for making necessary amendment from Govt

The Committee recommends that the rule be amended suitably to convey the clear meaning

Rule—18

18 [Section 22 and 54 (2) (h)] — Every member shall be entitled to get a fee of sixteen rupees per day for attending a meeting of the Board or any Committee thereof which shall be paid in addition to the travelling allowance admissible to him under these rules

Fee payable
to members
for attending
meeting

Observation/recommendation of the Committee

The Committee recommends that in line one of this rule the word 'on' may be omitted to make the rule grammatically correct.

The Committee observes that the rate of fees mentioned in the rule payable to members for attending meeting is very meagre. The Committee recommends that it may be suitably amended.

The department in their written reply stated as under —

'Case for omitting the word 'on' will be put up in the meeting of the Board to make necessary amendments from Govt. as suggested by the Committee.

The case for enhancement in the rate of fees will be put up in the meeting of the Board to make necessary amendment from Govt. as suggested by the Committee.

The Committee recommends that the rule be amended suitably as per observations of the Committee and accepted by the Department.

Rule—22

Receipt of
money on
behalf of
Board

22 [Section 25 and (54) (1)] — All moneys payable to the Board shall be received on behalf of the Board by the Registrar or any other employee of the Board authorised by him in writing in this behalf and shall be deposited in the Bank on the day following that on which these are received.

Provided that the Registrar may keep with him an amount not exceeding two hundred rupees as imprest money.

Observation/recommendation of the Committee

The Committee observes that the imprest amount of two hundred rupees may be suitably increased in view of escalation of prices.

The department in their written reply stated as under —

The case will be put up in the next meeting of the Board for making necessary amendments from Govt. as suggested by the Committee.

The Committee recommends that the rule be amended suitably as per recommendation of the Committee and accepted by the Department

Rule—23

23 [Sections 54 (1)] — All money received or spent on behalf of the Board shall without any reservation be brought to the accounts of the Board in the General Cash Book to be maintained in the form given in Appendix C under the direct supervision of the Registrar and in his absence under the supervision of an employee of the Board authorised by him in writing

Maintenance
of Cash Book

Observation/recommendations of the Committee

The Committee recommends that in line one of this rule for the word 'money' substitute the word "moneys" to make it more clear

The Committee would like to know the maximum period during which the Accounts are got audited ?

The department in their written reply stated as under —

The case will be put up in the next meeting of the Board to make necessary amendment as suggested by the Committee

The account of the Board are got audited after every 'financial year'

The Committee recommends that the rule be amended as per observation of the Committee

Rule—24

24 [Sections 25 and 54 (1)] — (1) The Registrar shall in the month of July each year cause to be prepared a statement of the income and expenditure of the preceding financial year ending 31st March and draw the attention of the Board to such matters which appear to him necessary for being brought to the notice of the Board

Preparation of
statement of
income and
expenditure

(2) The Statement referred in sub rule (1) shall be caused to be prepared by the Registrar under the direction of the Committee appointed by the Board for this purpose

Observation/recommendation of the Committee

The Committee would like to know as to whether the statement of income and expenditure is sent to the Government also ?

The department in their written reply stated as under —

'The statement of income and expenditure is never sent to Government. Now the case will be put up in the next meeting of Board as suggested by the Committee'

The Committee feels that the statement of income and expenditure of Board should be sent to the Govt./Department for its information to bring transparency in fiscal matters

Rule—27

Payment of
bills

27 [Section 25 and 54(1)] — A bill or other voucher presented as a claim for money shall be received and examined by the Registrar. If the claim be for an amount not exceeding twenty rupees and the bill is in order he shall pay the amount out of the permanent advance. If the claim be for an amount exceeding twenty rupees payment shall not be made until it has been examined and passed by the Chairman.

Observation/recommendation of the Committee

Will it not be desirable to enhance the limit of Rs. 20/ for the payment of claim out of the permanent advance by the Registrar without the approval of the Chairman ?

The department in their written reply stated as under —

The case to enhance the limit of Rs. 20/ will be put up in the next meeting of the Board for making necessary amendment from Govt. as suggested by the Committee

The Committee recommends that the rule be amended accordingly as per observation of the Committee

General observation/recommendation regarding Forms

The Committee recommends that for the word "Punjab" substitute the word 'Haryana' wherever occurring in the Forms appended in these Rules

The Department Representatives agreed to amend the Forms accordingly

3 Scrutiny of the Punjab Minor Mineral Concession Rules 1964 framed under the Mines and minerals (Development and Regulation) Act, 1957

The Committee scrutinised the above Rules and made the following observations/recommendations —

Rule—3

3 *Exemption* —Notwithstanding anything contained in these rules no royalty or permit fee shall be charged for —

- (i) extraction of ordinary clay or ordinary sand by hereditary kumhars who prepare earthen pots on a cottage industry basis whose turnover during a year does not exceed five thousand rupees
- (ii) excavation of masonry stones and ordinary clay from areas which are not occupied by the lessee or contractor for bonafide personal requirement for the inhabitants of the area

Provided the excavation of the limestone or kankar from the areas which are not occupied by a contractor or lessee may be made by the members of Scheduled Castes Scheduled Tribes and Backward Classes Agriculturists whose monthly income does not exceed Rs 150/ per month and also the persons who want to build Dharamsala Piao or other building for charitable or philanthropic purposes under a permit valid for two months issued by the Director or any person authorised by him in this behalf on payment of five rupees

Observations/recommendations of the Committee

1 The Committee observes that the provisions of exemption from charging royalty or charging of permit fee needs to be amended/changed in view of prevailing circumstances as the exemption limits are on the lower sides

2 Whether the income criteria and the rate of payment for a permit valid for two months as laid down in the proviso to Rule 3 is justified in the present context

The department in their written reply stated as under —

A present Rule 3 Exemption has provided on no charging any royalty or permit fee for extraction of ordinary clay or ordinary sand by hereditary kumhars, whose income does not exceeds Rs 5000/ P.A. And further for excavation of lime stone or kankar from an area not occupied by a contractor/lessee to be made by members of Scheduled Castes Schedule Tribes and Backward classes Agriculturist whose monthly income does not exceeds Rs 150 per month and also a person who wants to build Dharamsala Piao or other building for charitable or philanthropic purpose shall be allowed

to excavate lime stone or kankar under a permit valid for two months, on payment of five rupees. In this regard it is submitted that in view of changed social circumstances for exemption limit needs to be changed as suggested by Committee no separate proposal will be made.

During the course of oral examination the Departmental representatives also agreed to amend the rule suitably. The committee recommends that the rule be amended suitably as per above observation of the Committee.

Rule—4

4 Supply of Mineral to consumers —The Contractors shall supply to consumers or allow them to excavate building stone limestone kankar and bajri at the rate specified in the third schedule of these rules for their bonafied personal use or for the construction of buildings meant for charitable or philanthropic purposes —

Note For purpose of sub rule (ii) of rule 3 and rule 4 the Mining Officer concerned shall be authority to decide whether a consumer is excavating the minor minerals for the personal bonafied use or not

The observations/recommendations of the Committee

The Committee would like to know as to whether the rates specified in third schedule of these rules are still applicable

Whether the department has any objection to an increase in rates specified in third schedule of these rules

The department in their written reply stated as under —

Yes, as and when any local person desires to have mineral from an area for his bonafide personal use mineral is given as rates specified in third schedule. There is no complaint in this regard from any one

These rates need to be changed. Separate proposal will be submitted

During the course of oral examination of the Departmental representatives accepted the observations/recommendations of the committee to increase the rates specified in third schedule suitably

The Committee recommends that the rates specified in Third Schedule of these rules be suitably increased in view of changed circumstances of the society

Rule—5

5 Restriction on grant of mining lease —(1) No mining lease shall be granted in respect of land within a distance of 60 meters from any village or national highway

(2) no mining lease shall be granted in respect of any such minor minerals as the Government may notify in this behalf. Such notifications may be for the whole of Haryana or any part thereof

Observations/recommendations of the Committee

1 The Committee would like to know as to whether any distance has been prescribed in respect of land near state highways, scheduled roads/ express highways for granting the mining lease?

2 Whether the State Government has notified any minor mineral in respect of which no mining lease at present is granted. If so, the details thereof may be communicated to the Committee

The department in their written reply stated as under —

Rule 21(1) (vii) provides that the lessee shall not carry on or allowed to be carried on any mining operations at any area within a distance of 75 meters from any railway line except under and in accordance with the written permission of the Railway Administration concerned 60 meters from National Highways or 50 meters from any reservoir tank, canal, roads or other public works or buildings or inhabited sites except under and in accordance with the previous permission of the Govt. The Railway Administration or the Govt. may in granting such permission impose such conditions as it may deem fit

Provided that except in cases of ordinary sand, no mining operation shall be carried on within 50 meters of any river banks

Provided further that in case of mining lease of Saltpeter the lessee may carry on or allowed to be carried on the extraction of Saltpeter at any point beyond a distance of 40 meters from any Railway line National Highway, reservoir tank, canal, road or other public works or building etc

At present four minor minerals notified in first schedule of Punjab Mineral Concessions Rules 1964 no mining lease for Fuller Earth, Bentonite (both are type of clay), slab slate granite have been granted

The Committee recommends that while amending the rules this aspect may also be examined as to whether any distance may be prescribed in respect of land for carrying out mining operations near scheduled roads/ express highways

Rule—10

10 Grant of mining lease by auction—(1) Notwithstanding any thing contained in these rules any minor mineral deposit may be granted on mining lease for a period of seven years by public auction

(2) The annual dead rent shall be determined by the highest bid offered in the auction and such dead rent shall be subject to enhancement upto 50% after the expiry of three years lease period

(3) Immediately after the completion of the auction the highest bidder shall deposit 25% of the highest bid as security and dead rent for one month in advance

(4) After the acceptance of the highest bid and on execution of the mining lease deed or commencement of mining operation whichever is earlier the Lessee shall be liable to pay monthly dead rent in advance by 7th of every month which shall be adjusted against the royalty payable for that month by 7th of next month

Provided that the lessee shall be liable to pay the dead rent or royalty in respect of each minor mineral which ever is higher

(5) Other terms and conditions of the lease shall be in accordance with rule 21 of the said rules

(6) The procedure relating to publication of auction notice in Haryana Government Gazette publicity to auction through newspapers conducting of auction as contained in clauses (i) (ii) (iii) and (vi) of sub rule (2) of Rule 30 of the said rules shall also apply to the auctions for grant of mining leases of minor minerals

(7) In case any major mineral for which no lease has been given is incidentally extracted while extracting minor minerals by the lessee such major mineral shall be the property of the Government and lessee shall be under an obligation to stack and store it and maintain its proper record in accordance with the directions of the Director or an officer authorised by him

(8) In case it is detected that lessee has disposed off incidentally extracted major mineral referred to in Sub rule (7) above in whole or part thereof or failed to maintain the record or stored mineral he shall be liable to penalties as specified in Sub sections (1) (4) and (5) of Section 21 of the Mines and Minerals (Development and Regulation) Act 1957 and determination of mining lease in term of clause (v) of sub rule (2) of rule 30 of the said rules

Observations/recommendations of the Committee

The Committee is directed to as to how can the requirements for lease in the public auction? In other words what are the requirements for participating in auction?

The Committee observes that the dead rent is subject to enhancement upto 50% after the expiry of three years lease period

The Committee would like to know the criteria/yardstick to vary the dead rent

The Committee would like to know as to whether any incident of extracting major minerals for which no lease has been given, while extracting minor minerals by the lessee has been taken place during the last five year? If so the details thereof

The Committee would like to know the definition of term dead rent

The department in their written reply stated as under —

'The person who is not defaulter, can participate in the auction and is required to deposit the earnest money

According to the proviso of Section 9A (2) of MMDR Act 1957 the Central Govt is empowered to enhance the rate of dead rent once during a period of 3 years and also to enhance the rate of royalty once during any period of 3 years in accordance with Section 9(3) of the Act *in respect of major minerals*. Accordingly Rule 20(2) of these rules empowers the State Govt to amend the first schedule i.e. rate of royalty. As per provisions of Rule 10 the dead rent fixed by public auction can be enhanced upto 50% while notifying auction notice for the grant of mining lease. State Govt exercises his power by prescribing the enhancement rate. The rate of enhancement can be fixed keeping in view of the nature and value of mineral in area. However, till now State Govt has enhanced the dead rent by 50% only

No such incident of extracting major minerals for which no lease has been given has taken place. It is pertinent to mention here that Hon'ble Supreme Court of India *vide* order dated 6.5.2002 have prohibited the mining operations. Therefore no incident of extraction of major minerals while extracting minor minerals have come to the notice of the department

Dead rent is the minimum amount which a mine lease holder has to pay in a year irrespective of the fact whether or not he operate the area

The Committee recommends that to make the rule more clear and unambiguous the definition of term Dead Rent may be given at an appropriate place in the Rules

At the time of oral examination the Departmental Representatives also accepted the proposal in principle to amend the rule accordingly for incorporating the definition of term Dead Rent

Rule—11

11 Register of Mining Lease—A register for mining lease shall be maintained in the office of the Mining Officer concerned in Form E

Observations/recommendations of the Committee

The Committee observes that the relevant rules for application or mining lease fee and disposal of application have been omitted in the year 2001. The Committee would like to know as to whether the format of register maintained in form E is now required to be amended in view of amendments in rule 6 to ibid?

The department in their written reply stated as under —

In this regard it is submitted that register maintained in form E for mining leases for extraction of minor minerals granted prior to 9.10.2001 is required to be still maintained. Further minor mineral leases for areas held for major minerals are also being granted on the principle of one area one lessee. State Govt on 8.10.2003 have inserted Rule 10 A providing that where the letter of intent for grant of mining lease for major minerals has been sanctioned prior to substitution of Rule 10 vide notification dated 9.10.2001. It is expedient that the mining lease for minor minerals in such areas be granted to the lessees of major minerals on submission of mining lease application in form C. Further Rule 10A (4) provides that in case the mining leases for major minerals are renewed by the Govt then it may consider renewal of mining lease for minor mineral for the same area on the principle of one area one lessee on submission of application. Therefore the format of register maintained in form E is required as such."

The Committee observes that the above observations/recommendations of the Committee may be examined again and the Committee be informed accordingly as to whether the format of Register of Mining lease is required to be amended or not as the Register Form E is to be maintained for both types of minerals i.e. minor and major and the lease of minor minerals is granted now by auction and not by application.

Rule—12

12 Inspection of Register—The register of applications of mining leases shall be open to inspection by any person on payment of the following fee —

- (i) Rs. 2/- for the first hour or part thereof
- (ii) Re. 1/- per hour or part thereof for subsequent hours

Observations/recommendations of the Committee

The Committee would like to know as to when the existing fee for inspection of register was prescribed

The department in their written reply stated as under —

'The fee for inspection of register was prescribed at the time of framing of State rules

At the time of oral examination the departmental representatives also agreed to amend the rule suitably by prescribing one time rates. The Committee recommends that the fee for inspection of register be suitably amended

Rule—14

'14 Length & Breadth of the area leased — (1) The length of an area held under a mining lease shall be rectangular as far as possible and shall not exceed four times its breadth

Provided that the Govt. may in any particular case release the provisions of this rule

(2) An application for a mining lease shall relate to one compact area only

Observations/recommendations of the Committee

The Committee recommends that in line four of sub rule (1) of this rule for the word 'release' substitute the word "relax" for making the rule more clear

The department in their written reply stated as under —

"The word 'release' is in fact 'relax' and is only typographical mistake required correction has been made

Rule—16

16 Security Deposit — The applicant shall after the grant of mining lease to him deposit as security in the following manner for due observance of the terms and conditions of lease. He shall also offer one surety equal to the amount of security —

Area	Rate
(i) For mining lease upto 50 hectares	Rs. 5 lacs
(ii) For mining lease exceeding 50 hectares but not exceeding 75 hectares	Rs. 7.5 lacs

(iii) For mining lease exceeding 75 hectares Rs 10 lacs

Observations/recommendations of the Committee

The Committee observes that the Rule 16 is not happily worded. The Committee recommends that for the words "deposit as security in the following manner" the words 'deposit the following amount as security' be substituted to make the rule properly worded.

The Committee observes that the above rules provide for security deposit for the due observance of the terms and conditions of the lease. Whether the Government/department have any objection in raising the existing amount of security suitably?

The department in their written reply stated as under —

As suggested, the enhancement of security amount can be examined separately.

The Committee recommends that the rule be suitably amended in view of the observations/recommendations of the Committee.

Rule—17

17 Transfer of Mining lessee — The lessee may with the previous sanction of the Government assign, sublet or transfer his lease or any right, title or interest therein to any person** [] on payment of a fee of Rs 100 to the Government.

Observations/recommendations of the Committee

The Committee recommends that in the marginal heading of this rule for the word lessee substitute the word lease to make the rule grammatically correct.

The Committee also observes that the fee of Rs 100/ for the transfer of lease is meagre; therefore the Committee recommends that it may be suitably increased.

The department in their written reply stated as under —

The required correction needs to be made as suggested by committee. Separate proposal shall be submitted for required amendment.

At the time of oral examination of the Departmental Representatives it was agreed to by the Department to amend the rule in the light of recommendations of the Committee. The Committee recommends that the rule be amended accordingly.

Rule—19

19 Lease to be executed within 3 months — Where a mining lease is sanctioned the lease deed in form F shall be executed within three months of the order sanctioning the lease and if the lease is not executed within the aforesaid period the order sanctioning the lease shall be deemed to have been revoked and the application fee shall be forfeited to the Government

Provided that where the Director is satisfied that the applicant for the lease is not responsible for the delay in the execution of the lease deed the Director may permit the execution of lease deed after the expiry of the aforesaid period of three months

Observation/recommendation of the Committee

The Committee recommends that in the title of proviso to this rule after the word "may" add the word "after reasons to be recorded" to make the rule more clear

The department in their written reply stated as under —

Suggested amendment shall be submitted separately

The Committee recommends that the rule be amended as per recommendation of the Committee

Rule—21

21 (1) Conditions of mining lease — Every mining lease shall be subject to the following conditions

- (i) (a) The lessee shall pay royalty on minor minerals despatched from the leased area at the rates specified in the first schedule

Provided that the lessee shall pay royalty at such revised rates as may be notified from time to time

* []

- (b) For calculating the royalty the lessee shall submit half yearly return for period ending 30th September and 31st March in Form G
- (ii) The lessee shall pay for the surface area occupied by him at such rates not exceeding land revenue water charges and cesses assessable on the land as may be fixed by the Government and specified in the lease deed
- (iii) The lessee shall also pay for every year such yearly dead rent within the limits specified in second schedule as may be fixed by the Government and if the lease permits the working of more than one minor mineral in the same area the Government may charge separate

dead rent in respect of each minor mineral

Provided that the mining of one minor mineral does not involve the mining of another minor mineral

Provided further that the lessee shall be liable to pay the dead rent or royalty in respect of each minor mineral whichever is higher in amount but not both

Provided further that the lessee shall pay in advance 50% of the annual dead rent at the time of execution of the agreement and also in the subsequent years on dates fixed in the lease for payment of the dead rent/royalty. This amount shall be adjustable against the dead rent/royalty payable by the lessee at the end of the year

[Provided further that where mining lease is granted by public auction annual dead rent would be determined in the auction as per the highest *bid*]

- (iv) If any minor mineral not specified in the lease is discovered in the leased area the lessee shall report the discovery without delay to the Government and shall not win or dispose of such minor mineral without obtaining a lease therefor. If he fails to apply for such a lease within six months from the discovery of the minor mineral the Government may give the lease in respect of such mineral to any other person
- (v) to (xxviii) * ** *

Observations/recommendation of the Committee

The Committee observes that the rate of dead rent relating to minor minerals as mentioned in the Second Schedule is at lower side which should be suitably increased

The Committee observes that the proviso to rule 21(iii) may also be made comprehensively clear to avoid different interpretation

The Committee would like to know as to whether any valid clearance certificate with regard to payment of mining dues such as royalty or dead rent etc. outstanding if any under the Act or the rules made there under from the Government or authority is necessary to be obtained by lessee for the grant of mining lease

The Committee recommends that in line one of para (iv) for the word leases substitute the word "lessee" to make it grammatically correct

The department in their written reply stated as under —

'The dead rent in schedule II of the rule was lastly revised on 3.6.2005 as Rs 2000/ per hectare. Now increase can only be made after three years

Yes, the provision for grant of mining lease of minor mineral on application to the lessee of major mineral lease holder on the principle of 'One Area One Lessee '

The suggested correction is required to be made

The Departmental representatives at the time of Oral examination also accepted the recommendations in principle

The Committee recommends that the rule be amended suitably in the light of observations/recommendation of the Committee made above

Rule—24

'24 Grant of Quarrying Permits —*[(i) Notwithstanding anything contained in these rules the Director or any other Officer authorised by him in this behalf may grant permit in Form K for any specified land not leased to anybody within the limits of the State of Haryana for any minor mineral for a period not exceeding thirty days under any one permit on payment of such royalty as shown in the first schedule of these rules]

(ii) In case the number of persons applying for the grant of permit in respect of any quarry is more than one the person who offers to excavate the largest quantity of mineral shall be given the permit

Provided that the grant of such permit may be refused for the reasons to be recorded in writing

Provided that quarrying permits in form KI shall be issued for a period of two years in case of brick earth minor mineral used for the manufacture of bricks by brick kiln owner on payment of fixed royalty specified in column 2 for different categories of brick kiln given in column 1 of the following table

TABLE

	Category of brick kiln	Annual royalty (Rs)
A	(Brick Kiln of capacity 28 ghoris or more of kachi bricks)	12 000
B	(Brick Kiln of capacity 22 of 27 ghoris of kachi bricks)	10 000
C	(Brick Kiln of capacity below 22 ghoris of kachi bricks)	8 000
D	Brick Kiln not fired during the year in which stock in and outside the kiln as on that 1st day of April does not have five lakhs of bricks of all categories	2 500

Note in case of closure of a brick kiln the brick kiln owner shall in form of the General Manager/Mining Officer District Industries Centre concerned in writing within thirty days of the closure of the kiln or 31st March next whichever is earlier Such kiln shall be placed in category D from the next year only if the stock of all

types of bricks in or outside the kiln at the close of the year does not exceed five lakhs bricks

Explanation Ghor is a vertical column of bricks of width equalling the length of a brick separated from the next similar vertical column by a distance of about 4 to 5 and number of ghories is the number of vertical column of bricks capable of being accommodated between the inner and outer wall of the vessel of a brick kiln along its width

Observation/recommendations of the Committee

The Committee would like to know as to whether the period of thirty days may be extended for quarrying permits on the ground of reasonable cause i.e. death or fatal accident in quarry or flood etc. ?

The Committee recommends that the application fee for grant of short term permit is at lower side which may be increased suitably

The Committee recommends that the language of the Note may be properly worded

The department in their written reply stated as under —

'No, the period of STP can not be extended for reasons like death accident in quarry or flood etc

Increase in application fee and court fee for Short Term Permit can be examined separately

As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made

The Committee recommends that the rule be amended suitably keeping in view the observations/recommendations of the Committee

Rule—25

25 Application for quarrying permits —An application for grant or quarrying permit shall be made to the Director or any other officer authorised by him in this behalf. It shall bear court fees of one rupee and shall contain the following particular —

- (i) name address and the profession of the applicant
- (ii) quantity of the minor mineral(s) for which permits is required
- (iii) name of the minor mineral(s) to be extracted and removed
- (iv) description (i.e. name of village(s) area and khasra nos) of the land from which the minor mineral is to be extracted and removed
- (v) Purpose for which the minor mineral is to be used

Every application shall be accompanied by a fee of ** [Rs 100] Where the application for a quarrying permit is refused the fee shall be refunded

[Provided that application for the grant of quarrying permit for brick earth shall be made to the Assistant Mining Engineer/Mining Officer of the district where the land from which brick earth is to be extracted is situated and shall be accompanied by the following documents —

- (i) an affidavit by the applicant stating the details of the land / e revenue estate khasra numbers etc from where he proposes to extract the brick earth and also that he has obtained the consent of the land owner for extraction of earth from that land The affidavit should be attested by an Oath Commissioner
- (ii) **Omitted
- (iii) a copy of the partnership deed/Article of Memorandum in case the applicant is a partnership firm or company as the case may be

The application shall also be accompanied by a fee of Rs 200 where the applicant's quarrying permit is refused the fee shall be refunded]

(2) In case the occupier owner of the land refuses his consent to the exercise of right and power reserved to the Government and transferred under the permit the permit holder shall report the matter to the Collector of the district concerned who shall direct the occupier or the owner to allow the permit holder to enter the said land and to carry on such mining or quarrying operations as may be necessary for the working of the mine/quarry on deposit with collector in advance a sum equal to ten per cent of the amount of royalty paid under the permit as tentative compensation subject to its final fixation by the Collector in accordance with the principles laid down in the Land Acquisition Act 1894

Observations/recommendations of the Committee

The Committee recommends that Court fee of Rupee one may also be suitably increased

The Committee would like to know as to whether the Department has any objection to increase the application fee for quarrying permit ?

The department in their written reply stated as under —

"The required change in fee can be made from Rs one' to Rs '100

No

The Committee recommends that the rule be suitably amended keeping in view the above observations /recommendations of the Committee

Rule—26**26 Conditions on which the quarrying permit shall be granted —**

- (a) Every quarry permit granted under these rules shall contain a condition that the depth of the pit below the surface shall not exceed three feet
- (b) Any quarrying permit granted under these rules may contain such other conditions as the officer granting the permit may deem necessary in regard to the following —
 - (1) The limit mode and place of payment of rates and royalties
 - (2) Compensation of damage to the land covered by the permit
 - (3) Felling of trees
 - (4) Restriction of surface operations in any area prohibited by any authority
 - (5) Entering and working in any reserved or protected forest
 - (6) Reporting all accidents
 - (7) Indemnity to Government against claim of third parties
 - (8) Period within which the minor mineral shall be extracted and removed and delivery of possession over lands on the expiry of such period or on removal of the quantity of the minor mineral for which the permit is valid
 - (9) Deposit of security under head Revenue Deposits Security for fulfillment of the conditions of the permit and
 - (10) Release of security by the authority issuing permit after having satisfied that the permit holder has fulfilled all the conditions of the permit satisfactorily
- (c) In case the permit holder has not been able to remove for any reasons whatsoever the whole or any part of the minerals for which he obtained permit he shall not be entitled to claim the refund of royalty or any part thereof

Observations/recommendations of the Committee

The Committee would like to know as to whether the word rates mentioned in rule 26(b)(1) may be substituted by the word rent being more relevant ?

The Committee would like to know the amount of security for fulfillment of the conditions of the quarrying permit

Whether any time period has been prescribed in these Rules for the removal of minerals for which the permit holder has obtained permit ?

The department in their written reply stated as under —

Suggested correction is required to make

50% of the royalty amount is the security for STP

Yes STPs are granted for specific period which shall not be more than 30 days "

The Committee recommends that the rule be amended as per observation of the Committee made in rule 26(b)(1) above

Rule—27

' 27 Forfeiture of property left after Cancellation of the Permit —In case of breach of any of the conditions subject to which the permit is granted the Director may cancel it On cancellation of the permit the quarried materials lying on the land from which they are extracted shall become absolute property of the Government

Observations/recommendations of the Committee

The Committee recommends that in line three of this rule after the words ' may cancel it , add the words after reasons to be recorded , to make the rule more explicit

The Committee would like to know as to whether any appeal or revision lies against the orders passed by the Director under this rule ?

The department in their written reply stated as under —

Suggested correction is required to make

Appeal under rule 47 of rules lies against the orders of Director Mines and Geology, Haryana before State Government "

The Committee recommends that the rule be amended as observed by the Committee and agreed to by the Department

Rule—30

30 Period of Contract — (1) Each contract will ordinarily be auctioned for a period of three years unless the period is specifically stated The successful bidder will be informed of the auction in his favour

2 The auction shall be notified —

(i) On the notice board of Director Mining Officers and atleast in one newspaper having wide circulations in the locality nearest to the area in question in the regional language

(ii) In the Haryana Government Gazettee by publishing the auction notice at least 10 days before the date of auction and it shall mention the terms and conditions of the contract. A copy of the auction notice shall be sent to the local authority having jurisdiction over the area in question for giving wide publicity in the area

(iii) The terms and conditions and description of the contract shall be read out to the intending bidders at the time of auction. The intending bidder shall deposit such earnest money as may be fixed by the Director. In each case such amount shall be notified in the Government Gazettee.

No person shall be entitled to participate in the auction unless he produces a certificate from Assistant Mining Engineer/Mining Officer of the District in which the quarry is situated or furnishes an affidavit sworn before any Magistrate to the effect that no amount of contract money, royalty or dead rent or surface rent in respect of any mining lease or contract held by him earlier or in respect of any recovery certificate issued by the Director of Mines and Geology in terms of Rule 53 is outstanding against him.

Provided that where any injunction has been issued by a Court of law or any other competent authority staying the recovery of any such amount the non payment thereof shall not be treated as a disqualification for purpose of participation in the auction.

(iv) No bid shall be regarded as accepted unless confirmed by Government on completion of the auction. The result will be announced and provisional selected bidder shall immediately deposit 25% amount of bid for one year as security and shall offer one surety solvent in the sum of his bid for the whole contract for the due observance of the terms and conditions of the contract. He shall also deposit immediately the following amount as advance contract money —

Where the bid amount for one year

(a) does not exceed rupees one thousand	Whole of such amount
(b) exceeds rupees one thousand but does not exceed rupees five lakhs	Twenty five per cent of such amount
(c) exceeds rupees five lakhs	1/12th of such amount

[Provided that under special circumstances Director may fix the amount to be deposited at the time of auction as security and advance contract money subject to the condition that total amount to be deposited at the time of auction shall not exceed 50% of the annual bid amount in the auction.]

Provided [further] that when Director/Additional/Joint Director of Industries/State Mining Engineer acts as the Presiding Officer he may subject to the directions of the Government as may be issued to him from time to time accept the bid.

**[Provided further that in case the surety offered by the contractor during the subsistence of a contract is not found solvent the contractor shall offer another solvent surety and a supplementary deed to this effect will be executed]

(v) The earnest money shall be refunded immediately at the completion of the auction to all excepting the persons whose bid is provisionally accepted. The earnest money shall be adjusted against the security under clause (iv)

**[Provided that if the highest bidder whose bid is provisionally accepted withdraws his bid the amount of earnest money deposited by him shall stand forfeited]

(vi) Misbehaviour by any bidder during auction can be punished by forfeiting his earnest money or removal or if necessary by debarring him for a period of three years from any future auction under these rules at the discretion of the Presiding Officer

Observations/recommendation of the Committee

The Committee recommends that in Sub rule (2) (i) for the word 'regional' substitute the word Hindi

The Committee would like to know as to whether any provision of appeal or revision may be made to modify or annul the orders passed by the Presiding Officer to check the abuse of powers in sub rule (2) (VI) ?

The department in their written reply stated as under —

The department is of the view that the suggested change be made as the regional language in Haryana is Hindi

Appeal under Rule 47 can be made against the order of Director or officer authorized by him. Required amendment to cover the orders of Presiding Officer passed under Rule 30(2) (VI) can also be made. Separate proposal shall be made

The Committee recommends that the rule be suitably amended keeping in view the observation/recommendation of the Committee

Rule—31

31 Procedure for calling tenders — (1) The tenders shall be invited through the Government Gazettee and at least in one newspaper having wide circulation in the locality nearest to the area in question in the regional language and shall be displayed on the notice boards of the Director Mining Officers and General Manager District Industries Centre. The notification shall be published at least ten days before the date of tender and it shall mention the terms and conditions of the tender and the contract. A copy of the notification shall be sent to the local authority having jurisdiction over the area in question. Every tender shall be submitted

to the Director or any other officer authorised by him in this behalf in a sealed cover
superscribed with the relevant details of the contract

(2) to (5) *

Observations/recommendation of the Committee

The Committee recommends that in line two of sub rule (1) for the words 'Government Gazettee' substitute the words Government Gazette or by Public Notice to make the provisions more wide

The Committee also recommends that in line three of sub rule (1) for the word 'regional' substitute the word 'Hindi'

The department in their written reply stated as under —

"As per provision of rule 31, the auction notice is required to be published in Government Gazette as well as in newspapers Further the auction notices are placed on public notice board of the department of Mines and Geology Haryana as well as in the offices of local authorities However the matter can be discussed at length during the course of oral examination

As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made

The Committee recommends that the rule be suitably amended keeping in view the observations/recommendations of the Committee and agreed to by the Department

Rule—32 A

32 A Payment of Balance Money — Notwithstanding anything contained in clauses (b) and (c) of sub rule (1) of rule 32 in case of contract of saltpetre the balance amount shall be deposited by the contractor on or before the 15th of May of the year to which the contract pertains

Observation /recommendation of the Committee

The Committee would like to know as to what is the effect of non deposit of balance money before the 15th of May of the relevant year

The department in their written reply stated as under —

"As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made

The committee recommends that provision mentioning the effect of non deposit of balance money before the due date be mentioned in the rule itself

Rule—33

33 Execution of contract — when a bid is confirmed or a tender is accepted the bidder or tenderer shall execute a deed in Form L and Form N in the case of saltpetre contract. The execution of the deed shall be made within one month from the date of communication of acceptance of bid or tender to the bidder or tenderer and if no such contract is executed within the aforesaid period the order accepting the bid or tender shall be deemed to have been revoked and the amounts paid under rule 30 (2) (iv) or 31 (3) as the case may be shall be forfeited to the Government.

Provided that where the Government or any officer authorized by it to accept bid or tender on its behalf is satisfied that the bidder or tenderer is not responsible for the delay in the execution of the contract the Government or its officer as the case may be may permit the execution of the contract within a reasonable time after the expiry of the aforesaid period of one month.

Provided further that in cases where the highest bids are accepted on the spot the execution shall be made within 10 days from the date of acceptance of the bid.

Observation/recommendation of the Committee

The Committee would like to know the reasonable time within which the contract may be executed after the expiry of the period of one month ?

The department in their written reply stated as under —

“Maximum three months after the expiry of one month period shall be sufficient to submission of complete documents for execution of deed. However, in few cases for reasons beyond control of the highest bidder as sometime is even more.”

The Committee recommends that the rule be suitably amended as per suggestion of the Department.

Rule—36

36 Renewal of mining lease — A mining lease may be renewed by the grant or for one or two periods each not exceeding the period for which the mining lease was originally granted.

Observation /recommendation of the Committee

The Committee recommends that in line two of this rule the word ‘or’ be omitted being superfluous.

The department in their written reply stated as under —

As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made.

The Committee recommends that the rule be amended as observed by the Committee and agreed to by the Department

Rule—37

37 Conditions of mining lease – Every mining lease shall be subject to the following conditions –

- (i) The provisions of rule 15 18 (3) 20 Clauses (i) to (xv) (xvii) & (xviii) of rule 21 (1) and 21 (2) shall apply to such cases with the modification that the word "Government" occurring in clauses (ii) to (iv) and (xviii) of sub rule (1) of rule 21 shall be substituted by the word "lessor"
- (ii) The lease may contain such other condition not being inconsistent with the provisions of these rules as may be agreed upon between the parties
- (iii) The period for which a mining lease may be granted shall be five years in the first instance unless the Govt. allow a longer period not exceeding ten years
- (iv) If the lessee makes any default in payment of royalty as required by rule 21(1) (i) or commits a breach of any of the conditions of the lease the lessor shall give notice to the lessee requiring him to pay the royalty or remedy the breach as the cases may be within thirty days from the date of receipt of the notice and if the royalty is not paid or the breach is not remedied within such period the lessor without prejudice to any proceedings that may be taken against the lessee determine the lease
- (v) The lessee may determine the lease at any time by giving not less than six calendar months notice in writing to the lessor after paying all outstanding dues to the latter.
- (vi) The lessee shall furnish a bank guarantee of Rs. 1 000/- to the lessor for due observance of the terms and conditions of the lease before the execution of the lease deed

Observation/recommendation of the Committee

The Committee recommends that figures 18(3) may be omitted as rule 18 has been omitted vide notification dated 9 10 2001

The Committee recommends that the amount of bank guarantee mentioned in sub rule (VI) seems to be insufficient which may be increased suitably

The Committee would like to know as to whether any guidelines and norms for conducting mining operation in a proper and skillful manner may

be mentioned in the other condition in para (ii) of this rule?

The department in their written reply stated as under –

'18 (3) has already been omitted on 9 10 2001

The Central Government for major mineral mines amended the rules and bank guarantee for major mineral mines was prescribed as Rs 15 000/ per hectare for land in use for mining with minimum amount of Rs One lac for "B" category for rehabilitation of abounded major mineral mines. Hence for minor mineral mines at present rate of minimum bank guarantee is sufficient. Further it has been incorporated only in December 2003 and to have actual assessment we may propose for any enhancement after few years.

The terms and conditions shall be the same as has been prescribed in the rule 21(1) are elaborate one which is applicable in these cases also. Hence no further amendments are required.

The Committee recommends that the figures 18 (3) be deleted from the above rule as the rule 18 has already been omitted vide Notification dated 9 10 2001. The Committee further recommends that the amount of bank guarantee may also be enhanced at the appropriate time.

Rule 38

38 Transfer or assignment — No mining lease or any right title or interest in such lease shall be transferred to a person unless he produces an income tax clearance certificate from the Income Tax Officer concerned.

Observation /recommendation of the Committee

The Committee recommends that in line one of this rule the sign " " may be added after the word "right" to make it more clear.

The Committee would like to know as to whether the word "person" includes the juristic person also?

Whether any fee for transfer or assignment may be provided in this rule?

Whether any Format of Income Tax Clearance Certificate is required to be prescribed in these Rules?

The department in their written reply stated as under –

As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made.

The word "persons" means any person who is not a defaulter of the department.

The Committee recommends that the rule be amended according to the observation of the Committee

Rule—39

39 Communication of Transfer or Assignment—Every transferee or assignee of a mining lease or any right title or interest therein shall within one month of such transfer or assignment inform the Government of the transfer or assignment and of the terms and conditions of such transfer or assignment. He shall also furnish to the Government a certified copy of the Transfer deed in duplicate

The observation / recommendation of the Committee

Whether the Government can relax the provisions of this rule? If so, what are the circumstances under which the Government can exercise the power of relaxation?

The department in their written reply stated as under —

Yes as per provision of rule 56 of State rules empowers any provision of rules. In case contract / lease is to be granted to any government company or corporation owned or controlled by the State or Central Govt

The Committee recommends that the circumstances under which the Government can exercise the power of relaxation should be mentioned in the rule itself

Rule—43

43 Returns and Statements—The holder of a mining lease shall furnish to the Government such returns and statements and within such period as may be specified by it

Observation / recommendation of the Committee

The Committee observes that the period for furnishing the returns and statements by the holder of mining lease should be specified in the Rule itself to make the rule more clear

The department in their written reply stated as under —

Lease deed in form F to be executed prescribe the period of submission of return however as suggested the same is being made

The Committee recommends that the rule be amended as per observation of the committee made above

Rule-45

45 Penalty — (1) If the holder of mining lease or his transferee or assignee fails without sufficient cause to furnish the documents information and returns called for by the Government he shall be punishable with imprisonment for a terms which may extend to six months or with fine which may extend to one thousand rupees or with both

(2) If any person grants or transfers or obtains a mining lease or any right title or interest therein in contravention of any of the provisions of this chapter he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both

Observation/recommendation of the Committee

The Committee is of the view that the amount of fine for the contravention of any provisions of this chapter should be enhanced suitably

The department in their written reply stated as under —

‘Yes as and when any local persons desire to have mineral from an area for his bonafide personal use, mineral is given as rates specified in mid schedule There is no complaint in this regard from any one

The Committee recommends that the amount of fine be enhanced suitably as accepted by the Department Representatives at the time of their oral examination

Rule-47

47 Appeal when Allowed — (1) Any person aggrieved by an order of the Director

- (i) cancelling or terminating a mining lease or forfeiting any deposit the eunder in whole or in part or
- (ii) refusing to permit transfer of a mining lease may appeal to the Government against such order within two months of the date of the order

Provided that any such application may be entertained after the said period of two months if the applicant satisfies the Government that he had sufficient cause for not making the application within time

(2) Where the functions of the Director have been delegated to any other officer subordinate to him under rule 46 any person aggrieved by any order of any such officer of the nature described in sub rule (1) may appeal to the Director

Provided that the appeal is filed within two months of the date of order appealed against

The observations/recommendations of the Committee

The Committee observes that as and when any officer exercises the power of the Director under the delegated powers under rule 46 the order passed by such officer may be treated as the order of the Director. Thus appeal against such order should be preferred to the Government not to the Director. The Committee would like to know the reason of filing appeal in such cases to the Director.

The Committee observes that sub rule (2) of this rule is not properly worded.

Whether any appeal or application for review may be entertained after the period of two months on the ground of reasonable/sufficient cause by the Director also as provided in proviso to sub rule (1) of this rule?

The department in their written reply stated as under —

The orders passed under delegated powers are not the orders passed by the delegating authority himself. Therefore appeal against the orders passed by the officer under delegated powers can be filed under Director.

As per suggestion of the committee to make the rule more clear it is suggested that change as proposed be made.

At the time of oral examination the Departmental Representatives assured the committee to examine the matter afresh in the light of observation of the Committee.

Rule—48

48 Fee for appeal and review — The Memorandum of appeal or application for review shall be accompanied in every case by a treasury receipt of Rs 500/ to the credit of Government under the head XXIX Industries Receipts from Minor Minerals.

Observation/ recommendation of the Committee

The Committee observes that fee for filing appeal or review should be enhanced suitably.

The department in their written reply stated as under —

As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made.

The Committee recommends that the rule be amended suitably.

Rule -49

49 Review Upon — On receipt of such application the Government or the Director as the case may be call for the relevant records and other information and after considering his explanation and giving the appellant an opportunity of hearing and considering any comments that might be offered by the Officer may cancel or review the order against which the appeal has been preferred. The order of the Government or the Director as the case may be under this rule shall be final.

Observations/ recommendations of the Committee

The Committee recommends that in marginal heading of this rule the word 'upon' may be omitted being superfluous.

The Committee would like to know as to whether the modification of order is also permissible while passing the order on review application under this rule ?

The department in their written reply stated as under —

As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made

Yes

The Committee recommends that the rule be amended suitably

Rule-54

54 Unauthorised Working — (1) No person shall undertake any mining operations in any area except under and in accordance with the terms and conditions of the mining lease contract or permit granted under these rules

(2) Any contravention of sub rule (1) shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both and in case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which the contravention continues after conviction for the first such contravention

Observations /recommendation of the Committee

The Committee observes that the fine of Rs One Thousand for the contravention of sub rule (1) of this rule may be suitably enhanced to curb the unauthorised working

The department in their written reply stated as under —

In this regard it is proposed that the penalties for unauthorized/illegal mining have been prescribed in section 21 of Mines and Mineral (Development & Regulation) Act 1957 therefore sub section of rule 54 can be amended to the following effect —

Any contravention of sub rule (1) shall be punishable as per provision of section 21 and 23 of Central Act and rules framed thereunder ”

The Committee recommends that the rule be suitably amended as suggested by the Departmental representatives at the time of oral examination

Rule—56

56 Relaxation of rules in special cases — The Government may relax any provision of these rules in cases where the contract/ lease is to be granted to any Government company or corporation owned or controlled by the state or Central Government

Observation/recommendation of the Committee

The Committee recommends that in line two, after the words ‘these rules’ add the words “reasons to be recorded” to make rule more clear

The department in their written reply stated as under —

“As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made

The Committee recommends that the rule be amended as per observation of the committee and accepted by the Department

Rule—60

60 Permission to start mining operations — The Government may permit the lessee or the contract or as the case may be to start mining operations pending execution of the agreement

Observation/recommendation of the Committee

The Committee recommends that to make the rule more clear after the word, ‘agreement’ add the words, ‘after reasons to be recorded’

The department in their written reply stated as under —

As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made ”

The Committee recommends that the rule be amended as per recommendation of the Committee made above and agreed to by the Department

Rule-61

'61 Acquisition of land of third parties and compensation thereon — In case of a land in respect of which minor mineral rights vest in the Government the contractor/lessee shall offer to pay compensation to an occupier or owner of the surface of the land wherefrom the minor mineral will be raised as also the land required for use as access to the mine/quarry stacking of the minerals and purpose subsidiary thereto for any damage or injury which may arise from the proposed mining or quarrying operations of the contractor/lessee land. If the said occupier or owner refuses his consent to the exercise of the rights and powers reserved to the Government and demised to the contractor /lessee the contractor/lessee shall report the matter to the Assistant Mining Engineer/Mining Officer posted in the District concerned Who shall request the Collector of the district concerned to direct the occupier or the owner to allow the contractor/lessee to enter the said land and to carry on such mining or quarrying operations as may be necessary for the working of the mines/quarry on deposit with the Collector in advance of the following amount as tentative compensation subject to its final fixation by the Collector in accordance with the principles of the Land Acquisition Act 1894

- (a) Ten percent of the annual contract/lease money for the land comprising the mine/quarry and
- (b) a sum at the rate of one rupee per square yard in the case of arable land and ten paise per square yard in the case of waste land per year for the land to be used for access to the quarry/ mine stacking of minerals and other subsidiary purposes. The contractor/lessee shall use the shortest possible route for access to the quarry/mine. If the amount of final compensation works out to be more than the tentative amount of compensation already deposited the contractor/lessee shall deposit immediately on demand by the Collector the additional amount of compensation. If however the amount of final compensation works out to be less than the amount already deposited by the contractor/lessee the excess amount shall be refunded to him.

Observations/recommendations of the Committee

The Committee observes that there are number of typographical/ printing errors in this rule which need to be rectified to convey the correct sense

The Committee also observes that the rate of tentative compensation for acquisition of land of third parties need to be enhanced to make it realistic/ reasonable

The department in their written reply stated as under —

"As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made

The Committee recommends that the printing/typographical errors be rectified and the rule be suitably amended as per observation of the committee made above and accepted by the Department

"THIRD SCHEDULE

RATES OF ROYALTY (CHARGEABLE BY THE CONTRACTOR/ CONTRACTORS FROM THE LOCAL CULTIVATORS)

(See rule 4)

1 Building stones –

(a) Ashlar and squared stones on a store

Average quantity

(i)	In a cart drawn by 2 bullocks	00 50
(ii)	In a cart drawn by 4 bullocks	1 00
(iii)	Carried by one donkey	00 12
(iv)	Carried by one mule	00 37
(v)	Carried by one buffalo	00 25

(b) Masonry stones including khandas, boulder, shingle etc

Average quantity

(i)	In a cart drawn by 2 bullocks	00 12
(ii)	In a cart drawn by 4 bullocks	00 25
(iii)	Carried by one donkey	00 03
(iv)	Carried by one mule	00 09
(v)	Carried by one buffalo	00 06

2 Lime Stone –

Average quantity

(i)	In a cart drawn by 2 bullocks	00 50
(ii)	In a cart drawn by 4 bullocks	1 20
(iii)	Carried by one donkey	00 15
(iv)	Carried by one mule	00 45
(v)	Carried by one buffalo	00 30

3 Kankar and Bajri

Average quantity

(i) In a cart drawn by 2 bullocks	00 12
(ii) In a cart drawn by 4 bullocks	00 25
(iii) Carried by one donkey	00 03
(iv) Carried by one mule	00 09
(v) Carried by one buffalo	00 06

Observation of the Committee

The Committee observes that the rate of royalty chargeable by the contactors from the local cultivators is at very lower side. Whether the Department has any objection to revise the existing rates given in the Third Schedule

The department in their reply stated as under -

"As per suggestion of Committee to make rule more clear it is suggested that change as proposed be made

The Committee recommends that the Third Schedule be amended suitably as per observation of the Committee and accepted in principle by the Department in their reply as well as at the time of oral examination

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