

# **Chapter VI**

## **Mines and Minerals**



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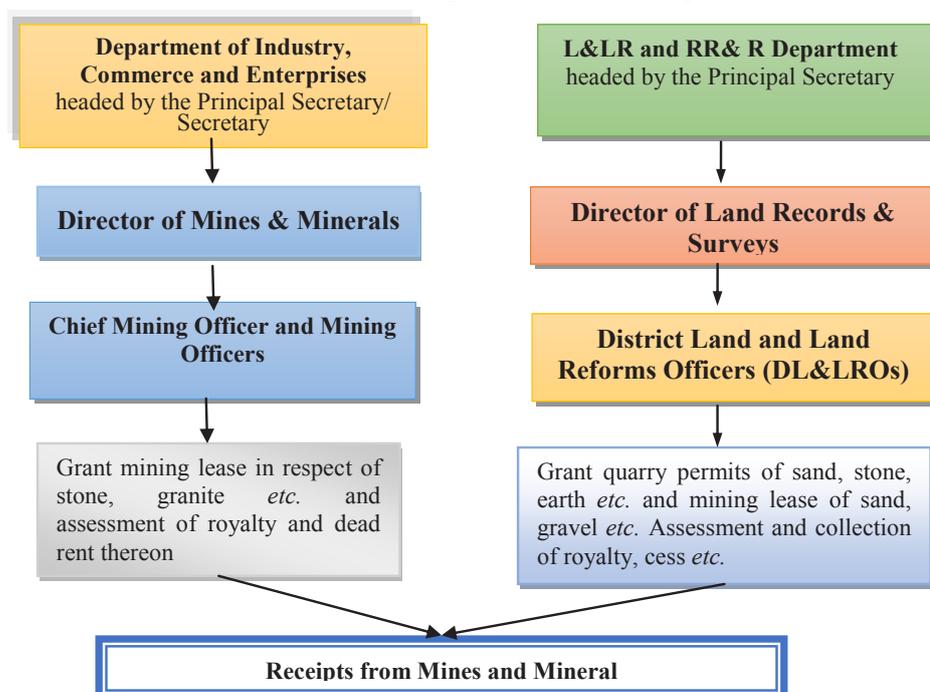
### Mines and Minerals

#### 6.1 Tax Administration

Assessment and collection of mining receipts is governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957; the West Bengal Minor Minerals (WBMM) Rules, 2002 and the West Bengal Minor Minerals Concession (WBMMC) Rules, 2016; the Bengal Public Demands Recovery (BPDR) Act, 1913; the Cess Act, 1880; the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.

In West Bengal, two departments, Land and Land Reforms and Refugee Relief and Rehabilitation (L&LR and RR& R) Department and Department of Industry, Commerce and Enterprises, are entrusted with the assessment and collection of revenues from minor minerals. The organisational set up has been shown in the following chart:

Chart 6.1: Organisational set up



#### 6.2 Internal Audit

As the mining activities are mainly regulated by L&LR and RR& R Department, the IAW of the Department is liable to conduct audit of the units involved in regulation of mining activities.

Performance of the IAW of L&LR and RR&R Department has already been discussed in Paragraph No. 3.2 of this report.

#### 6.3 Results of audit

In 2018-19, test check of the records of 11 DL&LROs showed under-assessment of tax and other irregularities amounting to ₹ 95.17 crore in 249 cases, which fall under the categories given in **Table 6.1**.

**Table 6.1: Results of Audit**

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/ short-assessment/ realisation of price of minor minerals extracted unauthorisedly	100	27.16
2.	Non/ short-assessment/ levy/ realisation of royalty and cess	58	11.88
3.	Non-realisation of bid money of auction of sand block from the sand lessee	34	50.23
4.	Non-raising of demand regarding District Mineral Foundation Fund	26	1.25
5.	Non/ short-realisation of penalty	13	3.53
6.	Other cases	18	1.12
<b>Total</b>		<b>249</b>	<b>95.17</b>

During the course of the year, the Department accepted under-assessment and other deficiencies of ₹ 53.94 crore in 213 cases; of which 191 cases involving ₹ 50.49 crore were pointed out during the year 2018-19 and the rest in earlier years. An amount of ₹ 2.74 crore was realised in 22 cases during the year.

Audit was conducted in 11 out of 29 (37.93 per cent) DL&LROs administering Minor Minerals and Mining Receipts during the period 2018-19. The cases mentioned in the succeeding paragraphs are those which came to notice in the course of test audit for the period 2018-19 as well as those which could not be reported in the previous Audit Report. The cases were examined to ascertain the extent of compliance of provisions of the Acts and Rules framed thereunder. The findings arising from audit involving ₹ 36.80 crore are discussed in the following paragraphs:

#### **6.4 Non/ short recovery of price of earth against unauthorised extraction of earth**

**Dues of ₹ 34.60 crore towards price of earth against extraction of ₹ 37.93 crore cft of earth without valid permits were not recovered/ short recovered in 2,027 cases.**

Under Section 21 of the MMDR Act, 1957 and Rule 50 of WBMMC Rules, 2016, whenever any person removes, without any lawful authority, any mineral from any land, the State Government may, apart from penal actions like seizure, confiscation, eviction, imprisonment *etc.*, recover from such person the mineral so removed or where such mineral has already been disposed of, the price thereof. Accordingly, the State Government has fixed price of earth at ₹ 123 per 100 cft which is 1.5 times the royalty<sup>140</sup> for extraction or removal of the earth.

Audit checked brick field registers and other relevant records in eleven DL&LROs and 3,270 cases were taken up for scrutiny out of 3,769 cases of extraction of earth; the balance 499 cases related to cases where either relevant records were either not available or the brick fields were not in operation and hence they could not be audited. Of these, in 2,027 cases brick field owners/ individuals extracted 37.93 crore cft of earth between 2016-17 and

<sup>140</sup> The rate of royalty for brick earth is ₹ 82 per 100 cft.

2017-18 without valid permits. However, the authorities did not take any action to stop such unauthorised extraction nor did they initiate penal action as per extant rules. Moreover, the authorities recovered only ₹ 12.05 crore as price of earth (@ ₹ 123 per 100 cft) out of ₹ 46.65 crore recoverable for such unauthorised extraction of earth. This resulted in non/ short recovery of ₹ 34.60 crore as shown in the following table:

**Table 6.2: Non/ short recovery of price of earth**

(₹ in crore)

Sl. No.	Nature of irregularities	No. of cases	Quantity of earth extracted (in crore cft)	Price of earth to be recovered @ ₹ 123 per 100 cft	Price of earth recovered	Non/ short recovery of earth
1	2	3	4	5	6	7=5-6
1.	Non-recovery of price of earth	948	20.39	25.08	Nil	25.08
2.	Short recovery of price of earth	1,079	17.54	21.57	12.05	9.52
<b>Total</b>		<b>2,027</b>	<b>37.93</b>	<b>46.65</b>	<b>12.05</b>	<b>34.60</b>

No reasons were found on records for non/ short recovery of price of earth. Though similar observations have been made in Audit Reports of last five years (2013-14 to 2017-18)<sup>141</sup>, no remedial measures were taken by the Department.

On this being pointed out in Audit, the Government accepted (January 2021) the audit observation and intimated realisation of ₹ 64.36 lakh. Further, they stated that persuasion was on for realisation of the balance amount.

### 6.5 Non-realisation of penalty for short extraction of sand

**Penalty of ₹ 2.20 crore was not realised for shortfall in the extraction of sand in 34 cases.**

In terms of Rule 21 (1) (e) of the WBMM Rules, 2002, the lessee shall extract and despatch a minimum guaranteed quantity of mineral from the leasehold area annually, as prescribed in the lease deed. In case there is any shortfall in the extraction and despatch of the said minimum quantity without any satisfactory reason, penalty to the extent of twice the amount of royalty, that would have accrued on such shortfall, shall have to be paid by the lessee. The reasons for shortfall in extraction will be regarded satisfactory if those are in accordance with the explanations under Rule 16(4) of WBMM Rules. In such cases the lessee would have to submit documentary evidence supported by an affidavit to the concerned authority.

It was observed (between December 2017 and September 2018) from records of 57 out of 212 lessees in offices of two DL&LROs that 27 lessees in 34 cases extracted 0.62 crore cft of sand against the minimum guaranteed quantity of 1.70 crore cft of sand prescribed in the lease deeds. Reasons, as required under the Rules, for short extraction of 1.08 crore cft of sand were not on record. In the absence of any satisfactory reasons, penal proceedings were required to be initiated by the authorities against these lessees. The authorities, however, did

<sup>141</sup> Para No. 7.7 of AR 2013-14, Para No. 6.4.18 of AR 2014-15, Para No. 6.4 of AR 2015-16, Para No. 6.4 of AR 2016-17 and Para 7.5 of AR 2017-18.

not levy or demand penalty for short extraction. This led to non-realisation of penalty to the extent of ₹ 2.20 crore.

Though similar observations have been made in earlier Audit Reports<sup>142</sup> of 2013-14 to 2017-18, no remedial measures were taken by the Department.

After this was pointed out, the Government accepted the audit observation (December 2020) and intimated realisation of ₹ 4.03 lakh. Further, they stated that persuasion was on for realisation of the balance amount.

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<sup>142</sup> *Para No. 7.5 of AR 2013-14, Para No. 6.4.19 of AR 2014-15, Para No. 6.5 of AR 2015-16, Para No. 6.5 of AR 2016-17 and Para 7.6 of AR 2017-18.*