GOVERNMENT OF KERALA

Abstract
Industries Department – Mining & Geology – Judgment of Hon'ble High Court
dated 20.10.2011 in WP(C)No.27051/11 and 27058/11 – Inclusion of ordinary
earth into the category of Minor mineral – Orders issued.

INDUSTRIES (A) DEPARTMENT

G.O.(MS) No.18/2012/ID

Dated, Thiruvananthapuram, 15/02/2012

Read:- 1) Notification No.GSR 95 (E) on February 3, 2000 of Ministry of Mines
and Minerals, Department of Mines, Government of India.
2) G.O(Ms)No.85/2010/ID dated 5.4.2010
4) Joint Judgment dated 20.10.2011 in WP(C)No.27051/11 and
27058/11 of Hon'ble High Court

ORDER

Minor mineral is defined under S 3(e) of the Mines and Mineral
(Development & Regulation) Act, 1957. As per the Act, ‘Minor Minerals’ means
building stones, gravel, ordinary clay, ordinary sand other than sand used for
prescribed purpose, and any other mineral which the Central Government may,
by notification in the official Gazette, declared to be a minor mineral.

In exercise of its power under S.3(e) of the Central Government issued
GSR 95(E) on February 3, 2000 declaring ordinary earth as a minor mineral,
which reads as “the ‘ordinary earth’ used for filling or leveling purposes in
construction of embankments, roads, railways, buildings to be a minor mineral in
addition to the minerals already declared as minor minerals herein before under
the said clause.”

As per Government Order read as 2nd and 3rd papers above, Government
of Kerala had issued certain guidelines regarding mining, extraction and
transportation of ordinary earth. Both the above read Government Orders were
issued, after taking into account the practical difficulties being experienced by the
publics in extraction and usage of ordinary earth as a construction and filling
material.

As per the judgment, read as 4th paper, Hon’ble High Court had observed
that, G.O(Ms)85/2010/ID dated 5.4.2010, is opposed not only to the statutory
provisions, but also to the principles laid down in a number of previous judgment
of Hon’ble Apex Court and Hon’ble High Court. Hon’ble High Court had
suggested to modify the orders.
Government have examined the issue in detail and are pleased to cancel the Government Order read as 2nd & 3rd paper above.

Director of Mining & Geology, Thiruvananthapuram will furnish necessary proposals, for including the ordinary earth in the category of minor mineral, by amending Kerala Minor Mineral Concession Rules, 1967, in tune with the notification of Central Government, read as 1st paper above.

The District Collector will take necessary action to control the illegal mining of ordinary earth till the issuance of notification, as per the Kerala Minor Mineral Concession Rules, 1967.

By Order of the Governor,

Alkesh Kumar Sharma,
Secretary to Government(IP).

To
The Director of Mining & Geology, Thiruvananthapuram.
The Secretary, Ministry of Mines, Government of India, New Delhi.
The Controller, Indian Bureau of Mines, Nagpur.
The Geological Survey of India, New Delhi.
The Revenue Department.
The Home Department,
The Local Self Government Department.
The Water Resources (GW) Department
All District Collectors.

All District Geologists.
Vyvasaya keralam, Thiruvananthapuram.
Kerala State Small Scale Industries Association.
Chamber of Commerce, Jawahar Nagar, Kaudiar,
Thiruvananthapuram.
Kerala Chamber of Commerce, Shanmugham Road, Kochi.
Malabar Chamber of Commerce, Kozhikode.
Director, Public Relations (for vide publicity)
Stock File, Office Copy

Forwarded/By Order,

Section Officer.