

# CHAPTER VII



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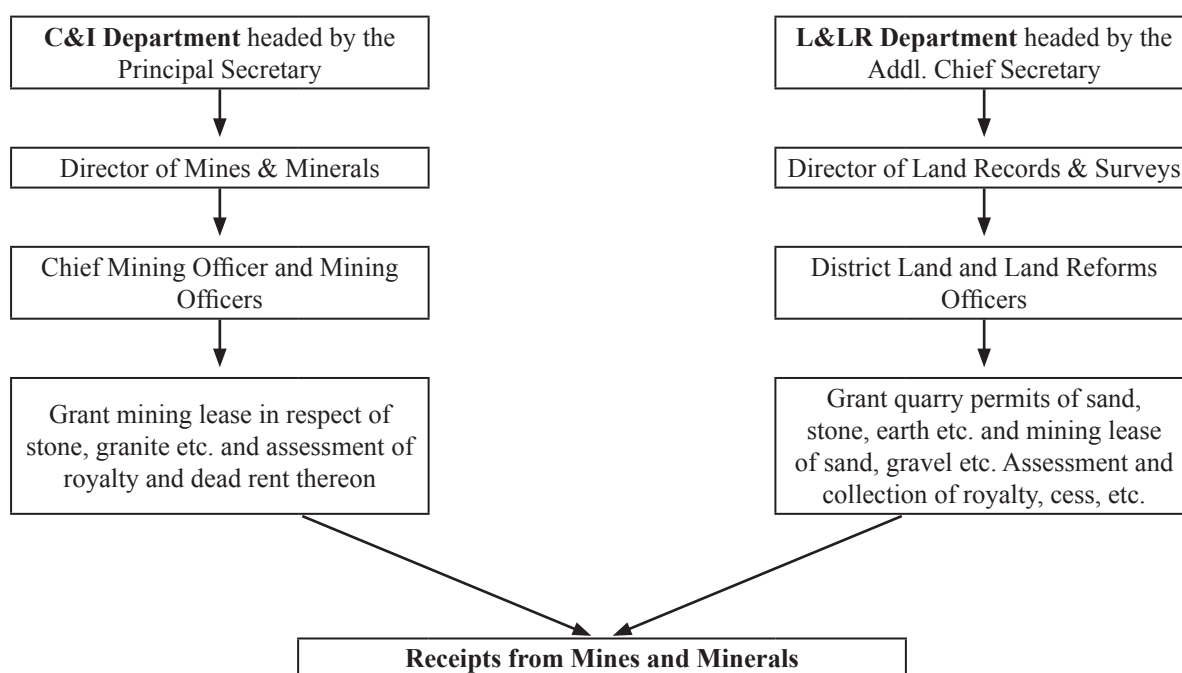
### MINES AND MINERALS

#### 7.1 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; 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, mainly two departments, Land and Land Reforms Department and Commerce and Industries Department, are entrusted with the assessment and collection of revenues from minor minerals. Land and Land Reforms (L&LR) Department grants quarry permits for sand, stone, earth etc. and mining lease of sand, gravel etc. It is also entrusted with the assessment and collection of royalty, cess, etc. Department of Industry, Commerce and Enterprises grants mining lease in respect of stone, granite, etc. and assesses royalty and dead rent thereon.

The organisational set up has been shown in the following chart:



#### 7.2 Internal audit

There was no separate Internal Audit Wing (IAW) for the units related to mining receipts. As the mining activities are mainly regulated by Land and Land Reforms (L&LR) Department, the IAW of the L&LR Department is liable to conduct audit of the units involved in regulation of mining activities. Performance of the IAW of L&LR Department has already been discussed in Paragraph No. 3.2 of this report.

### 7.3 Results of audit

In 2017-18, test check of the records of 10 units relating to mining receipts showed underassessment of tax and other irregularities amounting to ₹ 42.52 crore in 233 cases, which fall under the categories given in **Table 7.1**.

**Table-7.1**  
**Results of audit**

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short assessment/levy/realisation of royalty and cess	83	16.35
2.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	66	15.42
3.	Non/short realisation of penalty	11	2.63
4.	Other cases	73	8.12
<b>Total</b>		<b>233</b>	<b>42.52</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 42.13 crore in 206 cases; of this 175 cases involving ₹ 37.86 crore were pointed out during the year 2017-18 and the rest in earlier years. An amount of ₹ 4.06 crore was realised in 31 cases during the year.

Audit was conducted in 10 out of 29 (34.48 *per cent*) units administering Minor Minerals and Mining Receipts during the period 2017-18. The cases mentioned in the succeeding paragraphs are those which came to notice in the course of test audit for the period 2017-18 as well as those which came to notice in 2016-17, but 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 ₹ 22.10 crore are discussed in the following paragraphs:

### 7.4 Non/short realisation of royalty and cess on minor minerals

In 1,382 cases, ₹ 10.09 crore of royalty and cess on extraction of earth/ sand/ morrum/ boulder was not realised/short realised from the brick field owners, lessees and contractors.

Rule 4(1)(a) of WBMM Rules, 2002 prescribes that no person shall undertake any mining operation except under the terms and conditions of a mining lease or quarry permit. Rule 27(1) *ibid* provides that the prescribed authority may grant quarry permit to any person to extract any minor mineral, excepting stone and granite<sup>264</sup>, on pre-payment of royalty at prescribed rates. Rules 28 and 29 provide for application for quarrying and conditions of permit (Schedule V), respectively. Further, under the provisions of the Cess Act, 1880 (as amended in 1984), West Bengal Primary Education Act, 1973 and West Bengal Rural Employment and Production Act, 1976, holders of quarry permits are liable to pay different types of cess at prescribed rates on extraction of minor minerals.

Audit test checked<sup>265</sup> case records, demand and collection registers and minutes of meetings of District Land and Land Reforms Officers (DL&LROs) with

<sup>264</sup> Extraction of Stone and Granite is governed through mining lease under Rule 5 *ibid*.

<sup>265</sup> Between November 2016 and November 2017.

Brick Field Owners' Associations (BFOAs) in the offices of eight DL&LROs<sup>266</sup>. It was observed that in case of extraction of brick earth, procedure of application for quarry permit and pre-payment of royalty clause under WBMM rules were violated as district authorities fixed amount of extraction of brick earth and royalty thereon in meeting with BFOAs, however, extraction was allowed without pre-payment of royalty. Similarly, in case of execution of contracts, the contractors did not obtain the quarry permits for removal of minerals and the contracting authorities non/short deducted the royalty amount from their bills. Thus authorities had violated the provisions regarding application and grant for quarry permits.

Test check of records revealed that in 1,382 cases, 583 brick field owners, 73 lessees and 287 contractors were allowed extraction of earth/sand/ morrum/ boulder of 41.93 crore cft between 2013-14 and 2016-17 without realisation or with short realisation of royalty and cess. No action was taken by the DL&LROs concerned to realise the dues. This resulted in non/short realisation of royalty and cess of ₹ 10.09 crore from brick field owners, lessees and contractors as shown in the following table:

Table-7.2

**Non/short realisation of royalty and cess on minor minerals**

(₹ in crore)

Sl No.	Nature of irregularities	No. of cases	Quantity of minerals extracted (in crore cft)	Royalty and cess to be realised	Royalty and cess realised	Non/short realisation of royalty and cess (7) = (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(7) = (5-6)
1.	Extraction of earth / sand /morrum/boulder without payment of royalty and cess	331	10.34	3.77	Nil	3.77
2.	Short payment of royalty and cess on extraction of earth/sand /morrum/boulder	1,051	31.59	21.89	15.57	6.32
<b>Total</b>		<b>1,382</b>	<b>41.93</b>	<b>25.66</b>	<b>15.57</b>	<b>10.09</b>

After this was pointed out, the Government accepted the audit observation and intimated (February 2019) realisation of ₹ 65.64 lakh in 106 cases of DL&LRO, North 24 Parganas.

**7.5 Non/short recovery of price of brick earth**

In 691 cases, price of brick earth<sup>267</sup> of ₹ 9.76 crore was not recovered/short recovered, as penal action for extraction of brick earth without valid permit.

Rule 4(1)(a) of WBMM Rules, 2002 prescribes that no person shall undertake any mining operation except under the terms and conditions of a mining lease

<sup>266</sup> Bankura, Birbhum, Burdwan (East), Hooghly, Nadia, North 24 Parganas, Purulia and South 24 Parganas.

<sup>267</sup> Earth used for making bricks.

or quarry permit. Under Section 21 of Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 and Rule 33 of the West Bengal Minor Minerals (WBMM) Rules, 2002, the authority<sup>268</sup> is empowered<sup>269</sup> to recover either the minerals raised unlawfully or the price thereof in case of mining operations without a lease or valid permit. Accordingly, from time to time the State Government fixes the recoverable market price of minerals which includes brick earth<sup>270</sup>.

Audit test checked relevant records in nine DL&LROs<sup>271</sup> between November 2016 and November 2017. It was noticed from the information provided by the concerned DL&LROs that in 691 cases<sup>272</sup>, brickfield owners had extracted 12.23 crore cft of brick earth without valid permits during the period between 2014-15 and 2016-17. The authorities neither took any action to stop such unauthorised extraction nor recovered the price of brick earth which the brickfield owners had extracted. The price of brick earth recoverable from the brickfield owners stood at ₹ 11.27 crore, of which only ₹ 1.51 crore was realised as shown in the following table :

**Table-7.3**  
**Non/short recovery of price of brick earth**  
( ₹ in crore)

Sl. No.	Nature of irregularities	No. of cases	Quantity of brick earth extracted (in crore cft)	Price of brick earth to be recovered	Price of brick earth recovered	Non/short recovery of price of brick earth (7) = (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(5-6)
1.	Authorities did not recover price of brick earth on extraction of brick earth	560	8.08	6.46	Nil	6.46
2.	Authorities short recovered the price of brick earth extracted	131	4.15	4.81	1.51	3.30
<b>Total</b>		<b>691</b>	<b>12.23</b>	<b>11.27</b>	<b>1.51</b>	<b>9.76</b>

This resulted in non/short recovery of price of brick earth of ₹ 9.76 crore.

No reasons were found on records for such inaction on the part of the authorities.

Though similar observations were made in Audit Reports of last five years (2012-13 to 2016-17), no action by the Department to take remedial measures has been reported (December 2019).

<sup>268</sup> District Land and Land Reforms Officer.

<sup>269</sup> Apart from other penal actions like seizure, confiscation, eviction, imprisonment etc.

<sup>270</sup> Vide Memo No. 9109-M&M dated 13 September 1984, Memo No. 698/M&M-8/2013/LR A-II dated 23 March 2015 and Memo No. 920-M&M/LR/A-II/M&M-8/2014 dated 23 March 2018.

<sup>271</sup> DL&LROs and period involved in observation: Bankura-2015-17, Birbhum-2014-16, Burdwan (East)-2015-17, Hooghly-2015-17, Murshidabad-2015-16, Nadia-2015-17, North 24 Parganas- 2015-16, Purulia-2014-17 and South 24 Parganas-2015-16.

<sup>272</sup> One instance of price of earth not paid in any year constitutes one case.

After this was pointed out, the Government accepted the audit observation and intimated (February 2019) realisation of ₹ 1.01 crore in 130 cases of two<sup>273</sup> DL&LROs.

### 7.6 Non-realisation of penalty

Penalty to the extent of ₹ 2.25 crore, for shortfall in the extraction of sand/stone in 36 cases was not realised.

In terms of Rule 21(1) (e) of WBMM Rules, 2002, the lessee shall extract and dispatch 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 dispatch of the said minimum quantity without any satisfactory reason, penalty to the extent of twice the amount of royalty, which 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 to the Rule 16(4) of WBMM Rules<sup>274</sup>. In such cases the lessee has to submit documentary evidence supported by an affidavit to the concerned authority.

It was observed (between December 2016 and August 2017) from records of offices of three DL&LROs<sup>275</sup>, that lessees extracted less quantity of sand/stone against the minimum quantity prescribed in lease deeds. No record in respect of reasons for short extraction of sand/stone, as required under the Rules, was found to have been furnished by the lessees. In the absence of any satisfactory reason, penal proceedings were required to be initiated by the authorities in these cases. The authorities, however, did not levy and demand penalty for short extraction. This led to non-realisation of penalty to the extent of ₹ 2.25 crore as shown in the following table:

**Table-7.4**  
**Non-realisation of penalty**

SI. No.	Nature of irregularities	No. of lessees	No. of cases	Quantity of sand/stone (in lakh cft)			Non-realisation of penalty (₹ in crore)
				Prescribed for extraction	Extracted	Shortfall in extraction (7) = (5-6)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Lessees extracted less quantity of sand against the minimum prescribed quantity as per lease deeds.	31	35	151.40	39.58	111.82	2.23
2.	Lessees extracted less quantity stone against the minimum prescribed quantity as per lease deeds.	1	1	1.11	0.23	0.88	0.02
<b>Total</b>		<b>32</b>	<b>36</b>				<b>2.25</b>

<sup>273</sup> Murshidabad and North 24 Parganas.

<sup>274</sup> The satisfactory reasons are (a) delay in acquisition of surface rights; (b) delay in getting the possession of the leased area; (c) delay in supply or installation of machinery; (d) orders passed by any statutory or competent authority; (e) operation becoming highly uneconomical; or (f) strike or lock-out.

<sup>275</sup> DL&LROs and period involved in observation: Bankura-2015-17, Burdwan (E)-2015-17 and Jalpaiguri-2014-16.

Though similar observations were made in earlier Audit Reports of 2013-14 to 2016-17, no remedial action has yet been reported by the Department (December 2019).

After this was pointed out, DL&LROs Bankura and Burdwan accepted the observations in 34 cases involving ₹ 2.19 crore, while in remaining two cases, DL&LRO Jalpaiguri did not furnish any reply.

The matter was reported to the Government in May 2018. Reply was awaited.

These observations are the results of the test check of records made available to audit. There may be similar irregularities, errors/omissions in other units under the Department but not covered in the test audit. Department may, therefore, examine all the units with a view to ensure that revenue due to the Government is realised.

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