

**Chapter-3**  
**Assessment and collection of  
mineral receipts**



## Chapter-3

### Assessment and collection of mineral receipts

Any mineral concession in the form of a mining lease was to be settled by means of public auction-cum-tender only through e-bidding mode and as per the procedure laid in the latest notification issued by the State Government in this regard or as decided by the State Government from time to time, except limestone. Lease of limestone is executed by Indian Bureau of Mines (IBM) as per notification of Ministry of Mines & Geology, GoI. Where a mineral concession is granted under the rules, the formal lease deed shall be executed by the Collector in prescribed form within 180 days of the order sanctioning the lease. If the person to whom such mineral concession has been granted fails to submit the required documents for execution within the aforesaid period, the order sanctioning the lease shall be deemed to have been revoked and in that event, the application fee and the security deposit shall be forfeited. The settlement of stone lease would be for five years and amount would be realised in five equal annual instalments. The instalment amount would be realised in advance before 31 January. The settlement amount of sand *ghat* for next consecutive years would be fixed with enhancement of 20 *per cent* to the previous year's settlement amount as per sand policy. The settlement amount for every year would be realised in following manner:

Table-3

Sl. No.	Instalment	Due date of payment
1	First instalment (50 <i>per cent</i> )	Before issuing of work order for the first year and then after, 15 <sup>th</sup> December
2	Second instalment (25 <i>per cent</i> )	up to 15 <sup>th</sup> April
3	Third instalment (25 <i>per cent</i> )	up to 15 <sup>th</sup> of September

The rules provide levy of simple interest at the rate of 24 *per cent* per annum on the outstanding rent, royalty and fee.

MGD issued a notification on 22 July 2014 for settlement of sand *ghats* for a period of five years (2015-19) through tender-cum-auction basis to eligible highest bidders. Further, for the period of 2020-2024, the MGD invited (August 2019) tender for auction of sand *ghats* of all districts and the process was to be completed before September 2019. But, the leases could not materialised due to incomplete DSRs. As the new tender could not materialise, the MGD extended<sup>1</sup> the sand leases of 2015 to 2019 up to December 2021, with the enhancement of 50 *per cent* settlement amount to the previous year's amount according to the Rule 77 (2) of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019.

### Audit Findings

#### 3.1 Loss of Government revenue due to surrender of sand lease by lessees of sand *ghats* during the period 2015-19: ₹ 18.63 crore

The Bihar Sand Mining Policy, 2013 provides that in cases where the lessee withdraws the lease during the settlement period, the rules provide for cancellation of lease and realisation of full settlement amount, along with forfeiture of security

<sup>1</sup> Notification No. 4948 dated 27.12.2019, Notification No. 2646 dated 14.03.2020, Notification No. 3436 dated 30.12.2020 and Notification No. 986 dated 31.03.2021.

deposit. Further, if the first lessee withdraws from the settlement, the Collector is required to give an opportunity to the second highest bidder for settlement on the same terms and conditions which were applicable for the first bidder, after which, fresh auction for settlement of sand *ghats* was required to be initiated. There is no provision for midway surrender of lease under the above policy.

Audit observed in DMO, Bhagalpur that sand *ghats* were settled at ₹ 4.90 crore to the eligible bidder<sup>2</sup> for the first calendar year of lease period 2015-2019 with enhancement of 20 *per cent* to the previous year's settlement amount for next consecutive year. The work order was issued on 22 August 2015. As per work order issued, the lessee was required to submit Mining Plan and obtain EC from SEIAA, but the lessee obtained EC only for three sand *ghats*<sup>3</sup> out of 12 sand *ghats*. Further, lessee submitted modified Mining Plan of rest nine sand *ghats* but inter-departmental committee rejected the application of modified Mining Plan (October 2017); instructed the District Collector to cancel lease of nine sand *ghats* and to initiate necessary action for resettlement of the same. Accordingly, the same was cancelled (25 October 2017) by the District Collector. Meanwhile, the lessee requested (11 October 2017) to surrender the lease of sand *ghats* under Bihar Minor Mineral Rules, 2017, and requested to release the security deposit of ₹ 1.76 crore due to non-approval of modified Mining Plan by the MGD. On above request, the MGD refunded (February 2019) security deposit of ₹ 1.76 crore despite cancellation of the lease.

Audit further observed that the above case should have been dealt under the provisions of Bihar Sand Policy, 2013 as well as work order. As the Bihar Minor Mineral Rules, 2017, became effective from 10.10.2017 and were further quashed by the Hon'ble Patna High Court (November 2017), due to breach of condition of policy as well as notification by the lessee, the DM/DMO should have taken proper action for forfeiture of security deposit as per rules, after the cancellation of nine sand *ghats*, but neither the DM nor the DMO took any action against lessee and at the same time, did not offer the lease to second highest bidder, thus failing to safeguard the revenues of the State. As a result, the sand *ghats* of Bhagalpur were not made operational between 2018 and 2019, resulting into loss of revenue for ₹ 18.63<sup>4</sup> crore as well as providing undue favour to the lessee.

On this being pointed out, the DMO stated that the matter was already conveyed to MGD. However, lessee was unwilling to make sand *ghats* operational due to accruing loss and non-compliance of NGT orders. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

<sup>2</sup> M/s Sainik Food Pvt. Ltd.

<sup>3</sup> Two sand *ghats* namely Mahiyama *ghat* of Gerua river and Manikpur *ghat* of Chandan river in June 2016 and one sand *ghat* namely Bathani *ghat* of Gerua river in February 2017.

<sup>4</sup> (Amount in ₹)

Year	Settlement amount	Payment	Due amount
2015	4,90,00,000	4,90,00,000	0
2016	5,88,00,000	5,88,00,000	0
2017	7,05,60,000	7,05,60,000	0
2018	8,46,72,000	0	8,46,72,000
2019	10,16,06,400	0	10,16,06,400
<b>Total</b>	<b>36,46,38,400</b>	<b>17,83,60,000</b>	<b>18,62,78,400</b>

### 3.2 Non/short realisation of actual amount of royalty and other receipts due to incorrect calculation of settlement amount for the extended period of lease: ₹ 17.65 crore

As per orders of the Mines Commissioner, the settlement amount was to be calculated on the basis of number of days keeping in mind of leap years. The settlement amount for the extension period i.e 1 January 2020 to 31 October 2020 was based on 50 *per cent* enhancement on settlement amount of 2019 and calculation was to be based on 366 days. Further, as per the order of MGD, royalty for 43 days of COVID-19 period was to be waived off.

Audit observed in seven DMOs<sup>5</sup> that leases of sand *ghats* were executed by concerned lessees during extended period with enhancement of 50 *per cent* of lease amount of previous year *i.e.* 2019, but, these DMOs did not calculate the correct settlement amount, as one day of leap year was not included in settlement amount. Further, it was also observed that the MGD had not developed any mechanism to monitor the calculation of settlement amount by DMOs. Audit further observed that the MGD had provisioned relief of 43 days due to COVID-19 pandemic during 2020. However, DMO, Aurangabad had relaxed 45 days which resulted in undue advantage of ₹ 0.84 crore to the lessee. The district wise details are given in **Table- 4**:

**Table-4**

(Amount in ₹)

Sl. No.	Name of DMO	Year	Settlement amount for 2019	Settlement amount for 2020 as per rule (366 days)	Actual settlement amount for 2020 after deducting 43 days	Settlement amount fixed by DMO for 323 out of 366 days	Payment made by lessee	Short Payment of royalty	Short payment of DMF (2 per cent of short payment of royalty)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	8(5-7)	(9)
1.	Rohtas	2020	1,35,87,85,290	20,43,761,984	1,80,36,47,871	1,79,87,19,876	1,65,39,39,365	14,97,08,506	29,94,170
2.	Aurangabad		1,02,17,07,510	1,53,67,60,063	1,35,62,11,750	1,35,25,06,264	1,35,25,06,254	37,05,496	74,110
3.	Banka		45,49,06,368	68,42,29,030	60,38,41,466	60,21,91,626	60,21,91,627	16,49,839	32,997
4.	Nawada		15,88,37,760	23,89,09,398	21,08,40,808	21,02,64,925	21,02,64,930	5,75,878	11,518
5.	Saran		5,45,16,354	8,19,98,571	7,23,64,859	7,21,67,141	7,21,10,781	2,54,078	5,082
6.	Gaya		43,54,56,000	65,49,73,545	57,80,23,101	57,64,43,803	57,64,43,803	15,79,298	31,586
<b>Total</b>								15,74,73,095	31,49,463
	Name of DMO	Year	Settlement amount for 2020 fixed by DMO	Actual settlement amount for 2021 as per rule up to 4/21	Settlement amount fixed by DMO up to 4/21	Payment made by lessee	Short Payment of royalty	Short payment of DMF	
1.	Bhojpur	2021	2,23,08,64,794	1,09,71,46,620	1,09,41,48,960	1,09,41,48,960	29,97,660	59,953	

Further, Audit observed that DMO, Rohtas failed to realise the settlement amount of ₹ 14.48 crore against total settlement amount of ₹ 179.87 crore during extended period of 2020. Moreover, the settlement amount for the extended period of 2020 was also found incorrect by Audit.

Thus, due to incorrect calculation of settlement amount, revenue of ₹16.05 crore in the form of royalty was less realised. Moreover, due to incorrect calculation, District Mineral Foundation (DMF) Fund amounting to ₹ 0.32 crore and Stamp Duty (SD) and Registration Fee (RF) at the rate of 8 *per cent* for ₹ 1.28 crore were also less realised.

<sup>5</sup> Aurangabad, Banka, Bhojpur, Gaya, Nawada, Rohtas and Saran.

On this being pointed out, the DMOs stated that action would be taken after verification of calculation. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

**Recommendation: The Department should have a mechanism to monitor the district-wise settlement amount for each year.**

### 3.3 Non-levy of interest on delayed payment on settlement of sand ghats: ₹ 10.22 crore

As per Rule 29 B (4) of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019, in case of default in payment of any instalment within prescribed date, interest at the rate of 24 *per cent* per annum shall be charged.

Audit observed in eight DMOs<sup>6</sup> that lessees of sand *ghats* paid royalty/settlement amount from 2016 to extended period up to September 2021 with delay ranging between one and 225 days. The lessees were required to pay interest on delayed payment at the rate of 24 *per cent* per annum amounting to ₹ 10.22 crore as detailed in **Appendix-1**. Although the fact of delayed deposit of royalty was known to the concerned DMOs, they neither cancelled the lease after default nor levied interest of ₹ 10.22 crore for delayed payments.

On this being pointed out, the DMOs stated that the action would be taken after verification. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### 3.4 Non-realisation of security deposit for the settlement of extended period of sand ghats: ₹ 94.97 crore

The BM (CPTS) Rules, 2019 provides that every lessee of sand shall deposit the amount equivalent to 10 *per cent* of auctioned/tendered amount as security deposit for due observance of the terms and conditions of settlement. The deposit shall be refunded after expiry of the period of settlement/adjusted with the last instalment of the settlement by the Mining Officer. The Special Secretary-cum-Director of MGD has also directed (February 2020) to realise the security deposit from the lessee for the extended period of settlement of sand *ghats* under intimation to headquarters.

Audit observed in eight DMOs<sup>7</sup> that as per departmental notification, the lease period of 2015-19 was extended up to 31 October 2020, with the enhancement of 50 *per cent* settlement amount of 2019 and the lessee of sand *ghats* in these districts had continued their settlement up to October 2020, which was further extended up to 31 December 2021 in phased manner<sup>8</sup>. Security deposit realised for five years (2015-19) was adjusted against the 3<sup>rd</sup> instalment of settlement amount of 2019. As per conditions of work orders/in-principle approval, lessees of the sand *ghats* had

<sup>6</sup> Aurangabad, Banka, Gaya, Kaimur, Nawada, Patna, Saran and Vaishali.

<sup>7</sup> Aurangabad, Banka, Bhojpur, Nawada, Patna, Rohtas, Saran, and Vaishali.

<sup>8</sup>

1 <sup>st</sup> extension	Up to October 2020
2 <sup>nd</sup> extension	Up to December 2020
3 <sup>rd</sup> extension	Up to March 2021
4 <sup>th</sup> extension	Up to September 2021
5 <sup>th</sup> extension	Up to December 2021

to pay fresh security deposit amounting to ₹ 94.97 crore as detailed in **Appendix-2**. However, audit observed that no action was taken to realise the security deposit by these DMOs (December 2021).

Although, there was no provision for surrendering the mining lease in Bihar Sand Mining Policy, 2013, audit observed in five DMOs<sup>9</sup>, that lessees paid due settlement amount up to April 2021 only and surrendered the leases (May 2021) despite having extension up to September 2021. Audit calculated the amount of due instalment, as per work order which was not paid by the lessees as mentioned in **Table-5**.

**Table -5****(Amount in ₹)**

Sl. No.	Name of district	Period	Settlement amount due
1.	Patna	01.05.2021 to 30.09.2021	80,48,58,604
2.	Bhojpur	01.05.2021 to 30.09.2021	1,39,96,11,355
3.	Rohtas	01.05.2021 to 30.09.2021	1,27,38,61,210
4.	Aurangabad	01.05.2021 to 30.09.2021	95,78,50,800
5.	Saran	01.05.2021 to 30.09.2021	5,14,17,138
<b>Total</b>			<b>4,48,75,99,107</b>

As it is evident from the table above, that the concerned DMOs failed to realise the settlement amount of ₹ 448.76 crore in order to safeguard revenue of the State. This resulted that not only the Government suffered loss of revenue, but also illegal mining activities could not be ruled out. Had the DMOs realised the security deposit for the extended period, the same could have been forfeited in the event of surrender of the leases of sand *ghats*.

On this being pointed out, the DMOs stated that the action would be taken as per rule. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

**Recommendation: Security deposit should be realised for extended period of settlement of sand *ghats* as per BM (CPTS) Rules, 2019 for safeguard of Government revenue.**

### **3.5 Non-realisation of Stamp Duty and Registration Fee due to non-execution of registered deed for settled sand *ghats*: ₹ 97.41 crore**

As per Rule 29(3) of BM (CPTS) Rules, 2019, the lease deed has to be duly registered by paying proper Stamp Duty (SD) and Registration Fee (RF). Rule 11B (2) of BMMC Rules, 1972, provides that where the settlement is made by public auction-cum-tender, a deed shall be executed in form 'O' or a form as near thereto, as circumstances of each case may require in this rule, within 60 days of the issue of work order of the settlement and if no such deed is executed due to the failure on the part of the lessee, the security deposit and other amount paid may be forfeited. Further, Department while allowing extensions also mandated (December 2019) the registration of agreement for the extended period.

Audit observed that in two DMOs<sup>10</sup>, the lessees of sand *ghats* had short deposited ₹ 4.75 crore SD/RF against the applicable SD and RF during the period January 2017 to 2019. Further, the above SD/RF already included in the sale price of the

<sup>9</sup> Aurangabad, Bhojpur, Patna, Rohtas and Saran.

<sup>10</sup> Kaimur and Rohtas.

sand decided by the Government, therefore, the SD/RF was also being realised by the lessees.

In addition to above, Audit observed that only one DMO, Bhojpur got the deed registered during the extension period. While DMO, Patna, though realised the SD/RF, did not get the deed registered. Further, in DMO, Bhojpur deeds were executed on less settlement amount which was wrongly fixed by DMO during January 2021 to March 2021 and therefore less SD and RF were realised. Seven DMOs<sup>11</sup> failed to execute the deeds or deeds were executed at lesser amount resulting into ₹ 92.66 crore less SD/RF being collected from lessees. Therefore, an amount of ₹ 97.41 crore could not be realised in terms of SD and RF as detailed in **Appendix-3**.

On this being pointed out, the DMOs stated that notices had been issued to the lessees for registration of deeds and action would be taken after verification. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

**Recommendation: The MGD should establish a mechanism for assessment and proper realisation of revenue in time and initiate action at the earliest, in case of any default.**

### **3.6 Loss of Government revenue due to non-revalidation of bank guarantee in place of Stamp Duty and Registration Fee submitted by lessees of sand ghats: ₹ 11.10 crore**

Audit observed in two DMOs<sup>12</sup> that sand *ghats* were settled for calendar years 2015 to 2019. The lessees had to pay six *per cent* SD and two *per cent* RF of settlement amount as prescribed by the Government and accordingly registration of agreement deed would be executed.

In above two cases, lessees approached to court for relief of SD/RF and in due compliance of interim order<sup>13</sup> of Hon'ble High Court (November 2017), Patna, office of the District Sub Registrar (DSR) of these two districts agreed to accept bank guarantee in lieu of deposit of differential amount towards SD and RF for the registration of mining lease agreements with DMO, Banka and Nalanda for settlement of sand *ghat* in the following manner:

1. Total Payable SD at the rate of six *per cent* and RF at the rate of two *per cent* of lease amount.
2. Amount payable at the time of registration of lease, SD at the rate of six *per cent* on five *per cent* of lease agreement and RF at the rate of two *per cent* on five *per cent* of lease agreement.
3. Depositible bank guarantee (1 minus 2).

Accordingly, lessees of sand *ghats* in both districts deposited bank guarantees of ₹ 11.10 crore for SD and RF during 2017 to 2019 with a validity up to 31 December 2019 as detailed in **Appendix-4**. In this regard, Hon'ble High Court passed the final judgment (July 2019) in the favour of MGD, GoB stating that SD/RF was to be levied in the above cases.

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<sup>11</sup> Aurangabad, Bhojpur, Gaya, Nawada, Patna, Rohtas and Vaishali.

<sup>12</sup> Banka and Nalanda.

<sup>13</sup> CWJC 7034/2016 Aman Sethi Vs State of Bihar.



Audit observed that all the six bank guarantees had lapsed on 31.12.2019. In this connection, Audit also enquired from both District Registration Offices regarding validity of bank guarantees and they replied that above BGs had not revalidated (December 2021). It was further observed that even the SD deposited by the lessees of the sand *ghats* of these districts was also adjusted with the 3<sup>rd</sup> instalment of settlement amount for 2019 in both districts. Further, SD for extended period in Banka district was also not realised by the DMO.

Thus, due to lack of co-ordination between Registration Department and MGD, the State Government suffered a loss of ₹ 11.10 crore due to non-revalidation of above BGs where at least ₹ 11.10 crore SD could have been held against the BG by MGD.

On this being pointed out, the DMOs stated that correspondence would be made with District Sub-Registrar. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### 3.7 Non-settlement/non-execution of lease of stone quarries

As per BMMC (Amendment) Rules, 2014, Notification No. 3085/M dated 11.08.2014 and letter No. 3166 dated 20.08.2014 of MGD, the settlement of formal lease of stone mining shall be auctioned for five years through public auction. The lease area shall not be less than five hectares and shall be sanctioned in compact and contiguous block.

It further provides that the formal lease of stone mining is to be executed by the District Collector after submission of required documents and deposit of due instalment of settlement amount by the lessee within 120 days from the in-principle sanction. In case of failure to adhere to the lease conditions, lease is deemed to have been revoked and application and security deposit is required to be forfeited *suo-motu*.

#### 3.7.1 Non-settlement of stone quarries in Nawada

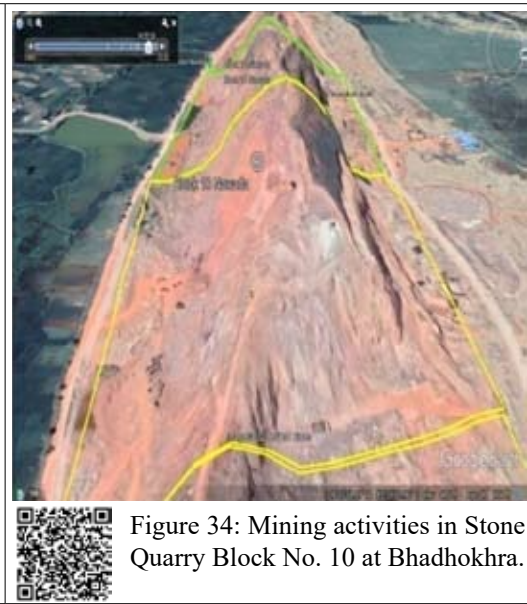
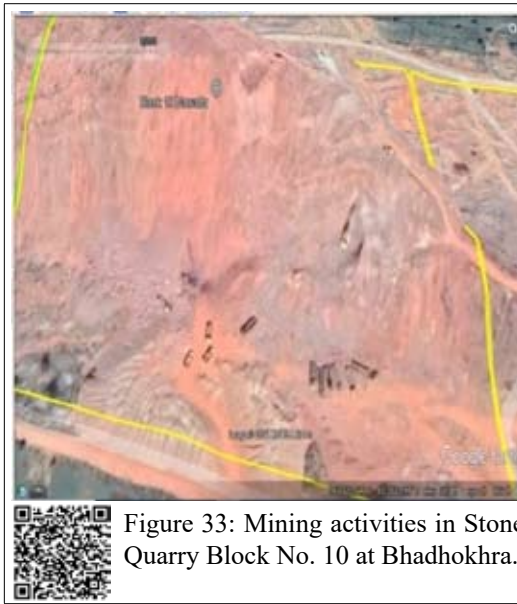
The chronology of events observed by Audit in the settlement of stone quarries (Block No. 10 at Bhadhokhra and Blocks A & B at Khakhndua) in DMO, Nawada is as under:

##### (a) Block No. 10 at Bhadhokhra

Date	Event
February 2015	In-principle approval accorded in favour of M/s Katyani Construction Private Limited for ₹ 27.51 crore.
May 2015	Mining Plan approved by MGD.
June 2017	EC accorded by SEIAA.
June 2018	Collector issued legal notice to explain the reason for non-execution of lease agreement and non-deposition of first instalment of settlement amount.
July 2018	Lessee appealed before Collector for reduction of auctioned amount and provide approach road, as approach road had vanished due to illegal extraction of huge part of lease hold area.
September 2019	Lease was cancelled by DM and security deposit was forfeited.

Date	Event
September 2019	In-principle approval was accorded to second highest bidder M/s Rajnandani Project Pvt. Ltd. and asked the agency several times for submission of required documents and settlement amount, but the bidder did not turn up.
January 2021	Collector cancelled the lease and forfeited the security deposit.
September 2021	Settlement was not done.

Further, study of satellite images as per Geo-coordinates provided by DMO, Nawada through Google Earth Pro, Audit observed that mining activities as well as movement of vehicles was noticed in Block No. 10 at Bhadhokhra stone quarry when lease period was not settled in September 2018 (**Figures 33 and 34**).



**(b) Blocks A & B at Khakhandua**

Date	Event
December 2018	In-principle approval for Block-A was accorded in favour of highest bidder Rajendra Singh, 15, Madar Teresa, North S.K. Puri, Patna for ₹ 1,77,36,68,782 and for Block B tender was in favour of M/s Patel Agro Industries Pvt Ltd. for ₹ 1,58,02,84,880.
January 2019 and June 2019	DMO requested (January 2019) DFO, Nawada for demarcation of boundary of forest area. DMO also requested District Collector, Nawada (June 2019) to direct the DFO, Nawada for the same as these blocks were located nearby forest area.
July 2019	In task force meeting DM directed Assistant Conservator of Forest (ACF) to do necessary action in this regard.
September 2020 to January 2021	MO requested DFO, Nawada to clarify the distance of forest land from Stone Block A & B as per coordinates of said stone blocks. In response DFO, Nawada stated that GPS coordinates made available by mining office does not tally with GPS coordinate taken at two places and mauja Kakhandua is surrounded by forest land from three sides.
February 2021	Revised in-principle approval was accorded for compliance of query of SEIAA. But lessee of Block B raised objection on in-principle approval of Block A.

Date	Event
August 2021	DM instructed DFO, Nawada to submit the report regarding verification of Geo-coordinate provided by Bihar Remote Sensing Application Centre, Patna after spot verification and duly intimate the development chronologically to Director, MGD. Audit observed that no progress in this regard was made (September 2021).

The above points indicate significant delays and substantive failure of the DMO/DM in terms of execution of lease and lack of adequate efforts by DMO for settlement of stone quarry. Further, the GIS images highlight that mining was carried out against which no revenue was realised by the DMO. Thus, the inactions on the part of the officials led to failure to safeguard the revenue of the State.

On this being pointed out, the DMO stated that regular efforts were being made to finalise and start the mining operations in the above blocks. Further, efforts would be made for resettlement of stone blocks. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### 3.7.2 Non-settlement of stone quarry in Kaimur

Audit observed in DMO, Kaimur that five-year lease of stone was granted to M/s BSC-C&C-JV in the area of 20.75 acres, (Mauja-Madurna, PS-Bhabhua) for the period 2009 to 2013. The previous lessee had requested to renew the lease under Rule 22 of BMMC Rules, 1972, but, the MGD refused to grant the renewal of lease of stone and asked the District Collector, Kaimur to execute fresh lease with proper transparent public tender method after survey of the lease area. The chronology of events in the settlement of stone quarry at Madurana Stone Quarry Block (Mauja-Madurna, PS-Bhabhua) is detailed as under:

Date	Event
<b>December 2015</b>	A committee was constituted for fixation of reserve price of stone lease area. The committee recommended that lease of Madurna stone quarry site was to be done as stone in place of stone earth and reserve price was fixed for ₹ 5 crore.
<b>April 2016</b>	District Magistrate, Kaimur invited e-tender for auction of stone quarry.
<b>May 2016</b>	The lease of stone quarry was settled in favour of M/S Starnet Marketing Private Limited for ₹ 5.15 crore.
<b>July 2016</b>	The in-principle approval was accorded.
<b>July 2016</b>	Lessee deposited security deposit of ₹ 0.52 crore.
<b>September 2017</b>	The Mining Plan was approved by the Department after more than one year of in-principle approval.
<b>December 2019</b>	Lessee requested DMO, Kaimur to provide valid Letter of Interest for Madurna stone mine as he had applied for obtaining environment clearance from MoEFCC, Delhi vide proposal no. IA/BR/MIN/109225/2019 dated 27.06.2019 and authority had raised query stating LoI was issued on 26.07.2016 and a time period of 120 days was given to comply with condition of LoI.
<b>September 2021</b>	EC was not obtained by the lessee after lapse of four years of approval of Mining Plan.

Thus, it were clear from the above, that the DMO and the MGD did not initiate any action for non-submission of EC by the lessee after lapse of almost four years of approval of Mining Plan (September 2017) and did not take any action for cancellation of lease and forfeiture of security deposit. This indicates significant delay and substantive failure on the part of DMO in terms of execution of lease and lack of adequate efforts for settlement of stone quarry. This led to loss of revenue to the Government and apart from it, illegal mining activities in the area could not be ruled out.

On this being pointed out, the DMO stated that the work order had not been issued due to non-availability of EC. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### **3.7.3 Non-settlement of stone quarries in Sheikhpura**

Audit observed that MGD issued direction<sup>14</sup> (August 2014) to DMO, Sheikhpura to demarcate stone blocks in the district for mining through public auction in which following norms were to be followed:

- (1) Blocks would be compact and contiguous,
- (2) Stone block area would not be less than five hectares,
- (3) Lease of stone block would be for five years,
- (4) After public auction, in-principle approval would be given to the highest bidder.

In light of above, DMO, Shiekhpora prepared (November 2014) a list of 30 stone blocks for public auction. During scrutiny of records, it was transpired that 10 Stone Blocks (9,11,13,14,12,19,20,23,26 and 30) remained unsettled (September 2021). Stone Block No. 9 was not settled due to lackadaisical approach of DMO as it was transpired from Departmental letter (December 2018).

Further, as per Clause No. 9 of tender, District Committee recommended (July 2015) that mining is prohibited within 50 metres of Stone Block No. 11,13, and 14 due to nearby habitants. However, in respect of Stone Block No. 11,13 and 14 department instructed (July 2015) the District Collector that mining lease area of five hectares or more might be settled after leaving a distance of 50 metres from habitation. But, no survey/report was found on record that DMO did the exercise in the light of the instruction of the Department.

Further, again as per recommendation of committee (December 2016) in respect of Stone Block No. 12,19,20,23,26 and 30, it was instructed for Stone Block No. 12,19 and 20 that re-verification of physical status was required by district level committee, but the same was not carried out by the Department in the light of instruction of the committee as no records were found in this regard. For Stone Block No. 23 and 26, the committee recommended to reduce the security amount. Further, committee accepted the proposal of district level committee in respect of Stone Block No. 30 for not auctioning the mining block.

In light of above facts, it is evident that the DMO did not follow instruction of the Department, resultantly, nine out of above stated 10 blocks remained unsettled till date. This indicated significant delays and substantive failure of the DMO/DM/

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<sup>14</sup> Letter No. 3166 dated 20.08.2014.

Department in terms of settlement of stone quarry. This led to loss of revenue to the Government and apart from this, illegal mining activities could not be ruled out.

On this being pointed out, the DMO stated that compliance had been made as per directions of the committee in this regard. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

**Recommendation: The Department should develop robust system for survey of stone quarries which will help in timely settlement of such stone quarries.**

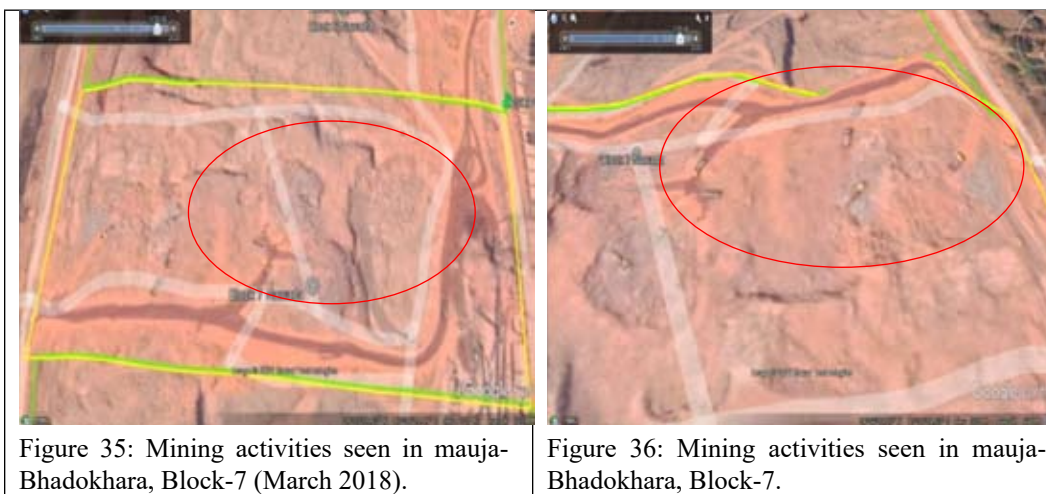
### 3.8 Non-realisation of royalty from lessees of stone quarries

As per lease agreement, lessee was required to pay the total settlement amount on yearly basis in equal instalment according to the provision 52 of BMMC Rules, 1972, and 1<sup>st</sup> instalment was to be paid prior to the execution of lease deed and thereafter, lessee was required to pay re-settlement amount by 31 January every year. As per provision of 52(5) of BMMC Rules, if any instalment is not deposited before prescribed period, simple interest at the rate of 24 *per cent* shall be charged up to two months and thereafter, action for cancellation shall be taken.

#### 3.8.1 Non-realisation of royalty from lessee of stone quarry by DMO, Nawada: ₹ 9.31 crore

Audit observed in DMO, Nawada that stone quarry at Mauja-Bhadokhara, Block-7 was settled in favour of M/s C&C Construction for ₹ 15.51 crore and in-principle approval was accorded in February 2015. Mining plan was approved by the MGD in May 2015, whereas EC was accorded by SEIAA in June 2017, after lapse of more than two years of in-principle approval. The DM/DMO served several notices for execution of agreement and deposition of settlement amount. But the lessee deposited only 1<sup>st</sup> instalment of settlement amount of ₹ 3.10 crore up to June 2018 after lapse of one year from obtaining EC from SEIAA. Audit further observed that neither the lessee registered the lease agreement nor deposited 2<sup>nd</sup> to 4<sup>th</sup> instalment (September 2021). Further, DM/DMO did not take any action for cancellation of the lease on non-receipt of the settlement amount and resettlement of the same.

Further, study of images of this lease on Google Earth Pro, revealed that mining activities have been carried out in this stone block during different periods. Images of mining activities are given in **Figures 35 to 36**:



Thus, due to significant delays and failure of departmental authorities to take effective measures or necessary action as per BMMC Rules, a sum of ₹ 9.31 crore up to 4<sup>th</sup> instalment in the shape of royalty, in addition to interest, could not be realised from the lessee (September 2021) despite mining seen carried out in the area during different periods.

On this being pointed out, the DMO stated that regular efforts are being taken at all levels to execute the agreement. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### **3.8.2 Non-realisation of royalty from lessee of stone quarry by DMO, Gaya: ₹ 15.28 crore**

Audit observed in DMO, Gaya that stone quarry of mauja-Gere, Block-1 (area 12.50 acres) was settled<sup>15</sup> for ₹ 37.00 crore and in-principle approval was accorded in February 2015<sup>16</sup>. The lessee paid instalment of settlement amount up to 4<sup>th</sup> instalment on regular basis up to March 2018 against due date of January 2017 and January 2018 of 3<sup>rd</sup> and 4<sup>th</sup> instalment after nominal delay. DMO sent (December 2018) a demand for payment of ₹ 7.40 crore against 5<sup>th</sup> instalment along with interest of ₹ 0.20 crore for delayed payment of 3<sup>rd</sup> and 4<sup>th</sup> instalment against which lessee requested (January 2019) for extension of time for paying the last instalment amount for one month without any penalty and further on 20 March 2019 for extension in paying last instalment amount up to 30 June 2019.

As lessees failed to pay last instalment after several demand letters, District Collector, Gaya cancelled (August 2019) the lease after forfeiting security deposit. DMO, Gaya further made a correspondence (November 2019) with lessee for payment of instalment of settlement amount along with interest and finally after lapse of more than one year, a certificate case for ₹ 15.28 crore was instituted (January 2021). But, the amount was not recovered till the date. Thus, it was evident from the above that after cancellation of lease (August 2019), the resettlement process was not initiated. It was seen that no correspondence was made with the MGD in this regard (September 2021) which is causing continuous revenue loss to the State Government.

The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### **3.8.3 Non-realisation of royalty from lessee of stone quarry by DMO, Banka: ₹ 2.81 crore**

Audit observed in DMO, Banka that the stone lease (area of 22 acres)<sup>17</sup> was settled for ₹ 3.76 crore and the in-principle approval was accorded on August 2015<sup>18</sup>, and agreement was executed (February 2017) after payment of 1<sup>st</sup> instalment amount of ₹ 75.20 lakh. The DMO sent several demand notices for payment of ₹ 77.33 lakh against 2<sup>nd</sup> instalment with interest. Accordingly, the lessee paid ₹ 20.00 lakh and submitted affidavit (August 2018) in mining office that the rest amount would be deposited in four instalments along with interest by

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<sup>15</sup> M/s IL&FS Engineering & Construction Co. Ltd.

<sup>16</sup> Letter No. 197/mining dated 07.02.2015.

<sup>17</sup> Mauja- Pahari, circle - Sambhuganj, Banka, Plot No. 163 (part), Khata No. 43 Thana No. 41.

<sup>18</sup> M/s Maha Lakshmi Enjicon Pvt. Ltd. vide Letter No.586/M.

December 2018. The MGD directed to take action as per rule<sup>19</sup> and impose simple interest at the rate of 24 *per cent* per annum up to two months and after that call for explanation and initiate action for cancellation. But no action was initiated by DM/DMO, Banka in this regard. The DMO send several demand notices for payment of due instalments during the year 2019 to 2020. But neither the lessee paid due instalment nor the DM/DMO took any action to resettle the stone quarry.

It is clear from the above that due to lackadaisical approach of the DMO, the settlement amount of ₹ 2.81 crore<sup>20</sup> up to 5<sup>th</sup> instalment could not be realised even after lapse of more than four years of settlement/agreement of stone lease.

Thus, due to significant delays and failures of various departmental authorities, the stone block could not be made operational for five years leading to non-realisation of royalty amount of ₹ 2.81 crore calculated on annual instalment.

The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

#### **3.8.4 Non-realisation of settlement amount and interest from lessees of stone quarries by DMO, Sheikhpura: ₹ 1.09 Crore**

Audit observed in DMO, Sheikhpura that an NIT was published for auction of 30 stone quarries during 2015-17, out of which, 20 stone quarries were settled. In-principle approval of all leases were accorded between 2015 and 2017. Even after execution of lease, settlement amount was not paid by lessees in due time and in one case settlement amount was not paid (September 2021). Further, audit observed that lessees of six stone quarries had deposited settlement amount with delay ranging between one and 175 days. The DMO failed to realise interest and didn't take any action for cancellation of lease as per rule. Thus, a sum of ₹ 1.09<sup>21</sup> crore (as detailed in **Appendix-5**) in the shape of settlement amount with interest was yet to be realised from the lessees (September 2021).

On this being pointed out, the DMO stated that demand notice had been issued and action is being taken for recovery. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### **3.9 Non-submission of final mine closure plan**

As per Rule 7(i) of Bihar Mineral Concession (Amendment) Rules, 2014, every mine closure plan shall be of two types, *viz.* Progressive Mine Closure Plan and Final Mine Closure Plan. The owner, agent or manager of mining lease/settlement shall, in case of grant of the mining lease/settlement, submit Progressive Mine Closure Plan as a component of Mining Plan to the officer authorised by the State Government in this behalf, as the case may be, for approval within a period of one year from the date of grant of such mineral concession. Further, as per Rule 7(iii), the owner, agent or manager of a mining lease/settlement shall submit a final mine closure plan for approval to the officer authorised by the State Government in this behalf, as the case may be, one year prior to the proposed closure of the mine.

Further, as per Rule 8, the owner, agent or manager of a mining lease/ settlement shall have the responsibility to ensure that the protective measure contained in the

<sup>19</sup> Rule 52(5), 21(5)/24(3) of BMMC Rules.

<sup>20</sup> Total settlement amount ₹ 3.76 crore – ₹ 95.20 lakh paid by lessee.

<sup>21</sup> Instalment: ₹ 1,01,50,905 and interest: ₹ 7,71,760.

mine closure plan, referred to in this rule, including reclamation and rehabilitation works have been carried out in accordance with the approved mine closure plan or with such modification as approved by the officer authorised by the State Government in this behalf under this rule.

As per State Level Environment Impact Assessment Authority (SEIAA) specific condition No. 17, a final mine closure plan along with corpus fund duly approved by Competent Authority shall be submitted to the SEIAA, Bihar and to concerned DMO prior to final mine closure for approval.

On scrutiny of Mining Plan and EC certificate issued by SEIAA/DEIAA of 13 DMOs<sup>22</sup>, Audit observed that a progressive mine closure plan was prepared by concerned lessees for sand mining during 2015 to 2019 and accordingly approved by the MGD. As per Mining Plan, details of various proposals for reclamation and rehabilitation of mined-out land were required to be submitted to the concerned DMOs. But, no documents were found on records regarding implementation of the norms of progressive mine closure plan as final mining closure plan of all sand *ghats* were not submitted by the concerned lessees even after lapse of almost 21 months from end of year 2019 of settlement. In this regard, neither any correspondence was made nor any action had been taken against the lessee. Thus, it was clear that as per the provision of the above rule and condition of SEIAA, no work was undertaken for land restoration/reclamation/rehabilitation. This defeated the intended purpose of the provision/act.

On this being pointed out, the DMO stated that correspondence would be made with lessee for submission of Final Mine Closure Plan and necessary action would be taken in this regard. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### **Limestone**

Limestone is the only major mineral available in Rohtas district of Bihar. Total estimated reserves of limestone as on 1 April 2020 were 1,18,09,870.00 MT, out of which 9,99,870.30 MT of limestone was extracted during 2020-21. Balance reserves of limestone as on 31 March 2021 were 1,08,09,999.70 MT.

The mining lease area of limestone at Murli Pahari (Rohtas) was granted under mining lease for a period of 20 years. The lessee filed application (December 2010) for renewal of mining lease as per the provisions of Rule 24 of MCR 1960. The State Government, as per the order of Hon'ble High Court, (April 2017) renewed the mining lease for further 20 years period up to 1 January 2032.

Under Section 24 of the MMDR Act, 1957, the officials of the Mining Department are authorised to carry out inspection of the mining leased area.

### **3.10 Less extraction of limestone against Mining Plan**

As per Progressive Mine Closure Plan of Murli Pahari limestone Mine, targeted production of limestone was 10,00,000 tonne per annum or 3,333 tonne per day on average, peak production on any day was 3,500 tonne, total handling of OB and waste was 32,40,000 tonne per annum or 11,000 tonne per day (TPD). Hence, total handling was 14,500 TPD and proposed working days per annum were 300

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<sup>22</sup> Aurangabad, Banka, Bhagalpur, Bhojpur, Gaya, Kaimur, Nalanda, Nawada, Patna, Rohtas, Saran, Siwan and Vaishali.

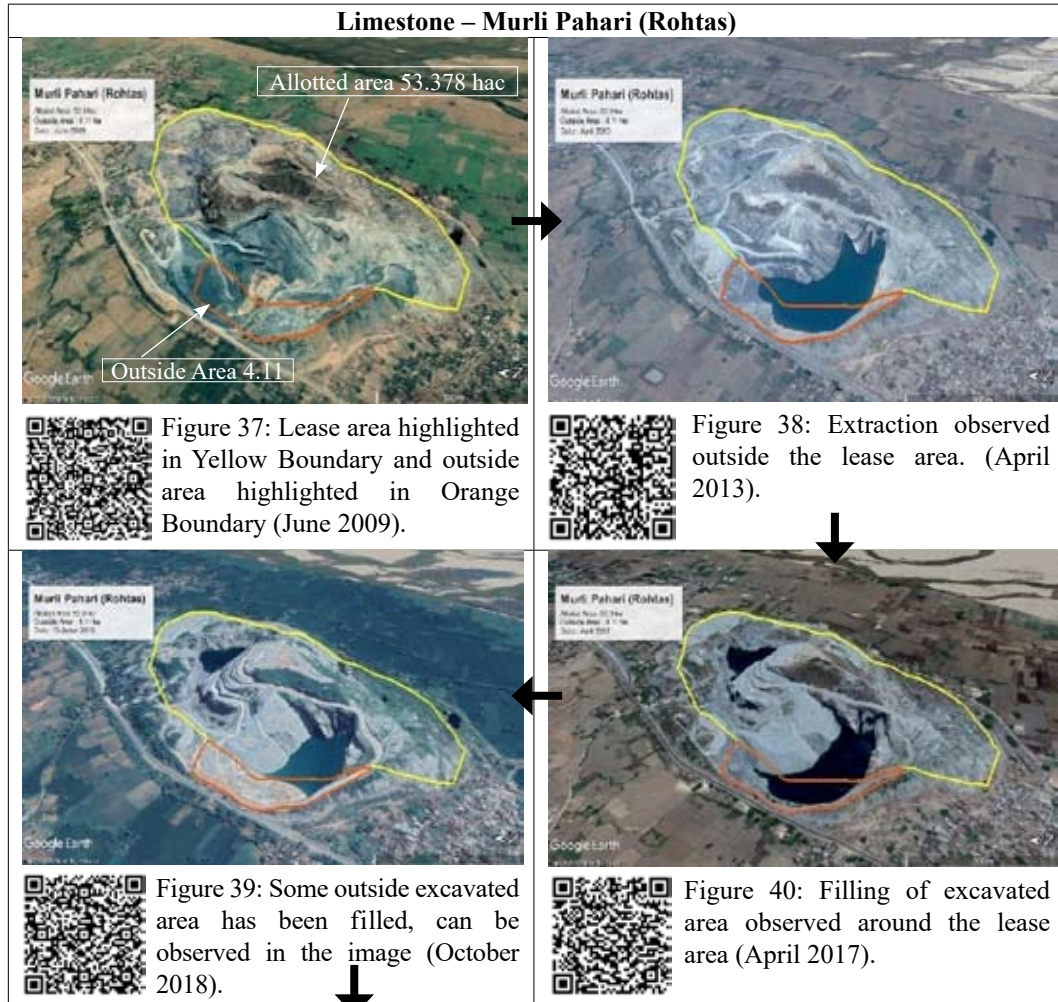


days. Further, royalty would be realised on the basis of actual extraction shown in monthly returns submitted by the lessee.

Audit observed that extraction of limestone was shown as 20,64,591.15 tonne in monthly returns during 36 months (August 2018 to July 2021) and royalty was paid to the tune of ₹ 16,51,67,292 (20,64,591.15 tonne at the rate of ₹ 80 per tonne).

Audit observed that the MGD had not established any mechanism to verify the quantity of minerals extracted by the lessees before despatch to the cement plants/ storage areas. The extracted quantity was being considered only on the basis of what was provided by the lessee. The quantity of limestone extracted as reported in the monthly returns by the lessee was accepted by the MGD. Audit observed that the MGD had not inspected lease area of mining operation during the audit period from April 2017 to July 2021, as there was nothing on records/reports related to inspection of lease area. Thus, in the absence of any monitoring mechanism, the MGD could not verify the correctness of extraction of mineral in allotted area and the monthly returns submitted by the lessee. The same could not be verified during audit also as no corroboratory documents were available.

Further, study of satellite images on Google Earth Pro related to Geo-coordinates of Murli Pahari (area 53.378 hectare) given in Mining Plan showed that mining activities were carried out in the outside area (4.11 hectare) during the year 2009 to 2013 and the area was filled up by reject/overburden material of allotted area in 2018 to 2019. This is supported by the historical Satellite images as given in **Figures 37 to 42:**



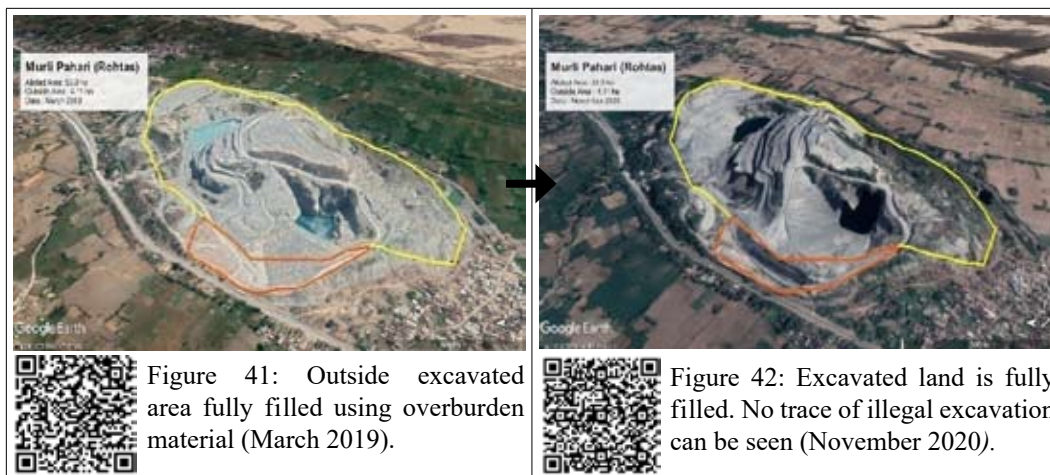


Figure 41: Outside excavated area fully filled using overburden material (March 2019).

Figure 42: Excavated land is fully filled. No trace of illegal excavation can be seen (November 2020).

As the average capacity for extraction of mineral was 29.99 lakh tonne as per approved Mining Plan during the period of 36 months, against which, the lessee had shown to have extracted less mineral (31 per cent) vis-à-vis during the above mentioned period. Had the extraction been made as per their capacity mentioned in the Mining Plan, the Department would have received royalty of ₹ 23.99 crore (29.99 lakh tonne at the rate of ₹ 80 per tonne). Hence, the Department was deprived from the royalty of ₹ 7.48 crore (₹ 23.99 crore– ₹ 16.51 crore) during the period of 36 months.

On this being pointed out, the DMO stated that notice would be issued. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

**Recommendation: The Department should develop mechanism for verification of quantity of minerals extracted before despatch and ensure adequate inspection/verification of limestone lease area by the Mining Office. Further, MGD should also carry out a Geo-spatial study to ascertain the actual extraction of limestone over the years.**

### 3.11 Non-auction of reject/overburden material

Audit observed that Murli Pahari Limestone mining lease, operated to meet the requirement of limestone for producing cement in its plant at Banjari, had a high proportion of “Overburden/Reject” material which could not be used in cement production. The ratio of limestone to overburden/reject in Murli Pahari lease was generally 4:1 and therefore quantity of such “Overburden/Reject” was very large. Since this material did not have any alternate use in cement production, the same could be utilised for road construction projects and other construction purposes. Further, as per report of Mines Inspector, a huge quantity of 16,83,650 cubic metre of reject was available at limestone area. The lessee had submitted (January 2019) an application for auction of overburden/reject material, but action had not been initiated in this regard till date. If auction process had been taken for sale of overburden/reject material by the MGD, the MGD would have generated substantial revenue in the terms of royalty.

On this being pointed out, the DMO stated that action would be taken in this regard. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### 3.12 Plantation in limestone area

As per General conditions (VII) of EC, regarding Murli Pahari Limestone Mine of M/s Kalyanpur Cements Ltd, of MoEFCC, Impact Assessment Division, New Delhi, plantation shall be raised in a 7.5 metre wide greenbelt in the safety zone around the mining lease, backfilled and reclaimed area, around water body, along the roads *etc.* by planting the native species in consultation with the local DFO/ Agriculture Department. The density of the trees should be around 2,500 plants per hectare. Greenbelt shall be developed all along the mine lease area in a phased manner and shall be completed within first five years.

Audit observed that limestone area was in 53.378 hectare and as such 1,33,445 plants were to be raised in the lease area. As per report of DFO, Rohtas, only 5,000 plants were procured by the lessee. Hence, plantation was not done in the mining area of limestone as per norms. Further, it was also observed that report/returns and compliance of guidelines/ instructions mentioned in the Mining plan, EC, CPCB/ SPCB were not found in concerned records.

On this being pointed out, the DMO stated that correspondence would be made. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### 3.13 Operation of brick kilns

The MoEF vide OM dated 24 June 2013 had categorised mining of brick earth into B-2 category<sup>23</sup> wherein obtaining EC from SEIAA is mandatory.

As per Rule 4 of BMMC Rules, 1972, “No person shall undertake any mining operation in any area without valid permit”. Rule 28 (1) states that an application for quarrying permit shall be submitted to the competent authority in form-I. Further, whoever is found to be extracting or removing minor minerals shall be presumed to be the illegal remover of the minor mineral and every such person shall be punished. Further, as per schedule of EIA notification<sup>24</sup>, 2006 issued by MoEF, GoI, EC is required and essential for brick earth mining for manufacturing bricks. Every brick kiln owner has to obtain Consent to Establish (CTE) and Consent to Operate (CTO) for mining project under Section 21 of the Air (prevention and control of pollution) Act, 1981 (14 of 1981).

As per Rule 26 (A) of the BMMC Rules, 1972 read with notification (January 2012) and Rule 38(4) of BM (CPTS) Rules, 2019 of the Mining Department, every brick kiln owner must obtain a permit and is required to pay the consolidated amount of royalty at prescribed rates<sup>25</sup>. If the brick kiln owner fails to make payment of the consolidated amount of royalty in the manner so prescribed, he shall not be allowed to carry on the operations.

<sup>23</sup> The activities of excavation of ‘brick earth’ and ‘ordinary earth’ up to an area less than five hectares have been categorised under B-2 category on the basis of spatial extent of potential impacts and potential impacts on human health.

<sup>24</sup> OM No. J-11013/56/2004-1A. II (I) dated 14/09/2006.

<sup>25</sup> ₹ 1,32,500 for category-I, ₹ 1,03,500 for category-II and ₹ 74,500 for category-III brick kilns before September 2019 and thereafter, ₹ 2,02,500 for category-I, ₹ 1,57,500 for category-II and ₹ 1,12,500 for category-III.

### 3.13.1 Illegal removal of brick earth without valid permit and without submission of CTE/CTO and Environment Clearance Certificate

Audit observed in 13 DMOs<sup>26</sup> for the years 2017-18 to 2020-21 that 9,490 (92 per cent) out of 10,269 brick kilns were being operated without valid permit and EC. Only 779 (eight per cent) brick kilns were being operated with valid permit and ECs. It was further observed that total 4,121 (40 per cent) brick kilns were being operated without submission of EC from SEIAA/DEIAA and 5,424 (53 per cent) brick kilns were being operated without submission of CTE/CTO from Bihar State Pollution Control Board (BSPCB), as detailed in **Appendix-6**. Further, DMO, Gaya did not provide any records related to CTE/CTO and EC of 1,806 brick kilns, hence, Audit could not analyse the same.

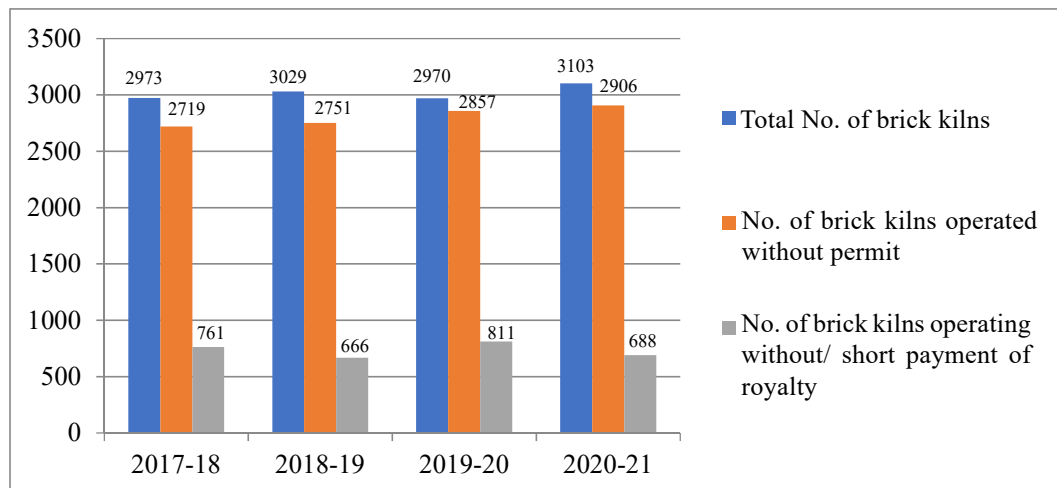
The excavation of brick earth without EC and CTE/CTO was not only illegal but could also affect the environment adversely. However, the DMOs did not take any appropriate action for stopping illegal operations of brick kilns as per rules.

On this being pointed out, the DMOs stated that notices had been issued to those brick kiln owners who had not obtained CTO and correspondence would be made to SPCB for necessary action in this regard. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### 3.13.2 Non/short realisation of royalty and penalty from brick kiln owners: ₹ 61.08 crore

Audit observed in 14 sampled DMOs that total 11,233 brick kilns were being operated without valid permit as well as without paying royalty as highlighted in **Chart-5**:

**Chart: 5**  
**Details of operation of brick kilns**



(Source: Details provided by sampled DMOs)

Audit observed from the details of inspection reports of brick kilns that even the permit issuing authorities were realising royalty from the operations of the brick kilns without permit. However, neither they initiated any action to stop the operations nor made any efforts to realise the due royalty, application fee

<sup>26</sup> Aurangabad, Banka, Bhagalpur, Bhojpur, Kaimur, Nalanda, Nawada, Patna, Rohtas, Saran, Siwan, Sheikhpura and Vaishali.

and penalty of ₹ 61.08 crore for operation of brick kilns without valid permit as detailed in **Appendix-7**. The inaction on the part of DMOs not only resulted into non-realisation of royalty and penalty of ₹ 61.08 crore<sup>27</sup> from 2,926 illegally operative brick kilns but also their collusion with illegal brick kiln owners could not be ruled out.

On this being pointed out, the DMOs stated that necessary action would be taken after verification. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

### **3.13.3 Non-realisation of Professional Tax from brick kiln owners: ₹ 2.07 crore**

Audit observed in 14 sampled DMOs that Professional Tax was not deposited by 8,277 (69 per cent) out of total 12,075 operative brick kilns during 2017-18 to 2020-21. This had resulted in non-realisation of Professional Tax for ₹ 2.07 crore due from brick kiln owners as detailed in **Table - 6**:

**Table-6**  
**Non-realisation of Professional Tax**

(Amount in ₹)					
Brick Season	No. of brick kilns	No. of permits issued	No. of brick kilns did not paid professional tax	Professional tax paid	Professional tax due (at the rate of ₹ 2,500 per brick kilns)
2017-18	2,973	254	2,381	0	59,52,500
2018-19	3,029	278	2,325	0	58,12,500
2019-20	2,970	113	1,916	0	47,90,000
2020-21	3,103	197	1,655	0	41,37,500
<b>Total</b>	<b>12,075</b>	<b>842</b>	<b>8,277</b>	<b>0</b>	<b>2,06,92,500</b>

On this being pointed out, the DMOs stated that brick kiln owners would be encouraged to deposit Professional Tax. The matter was reported to the Department (April 2022); their reply was awaited (May 2022).

<sup>27</sup> Royalty: ₹ 44,43,69,855 and Penalty: ₹ 16,64,51,150.

