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Revenue (189)) Department.

MISCELLANEOUS SERIES.

G.O., No. 3211

DATED 25th June

[Despatch Abstract.]

Approving the Board's proposals that pattadars excavating mica on a large scale be compelled to take out ^{running licenses instead of} prospecting licenses, and that the rate of per cent. royalty be fixed at 25 instead of at 50 per cent., and requesting the Board of Revenue to submit a set of draft rules on the conditions & stipulations under which mining in patta lands is to be permitted.

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Board of Revenue
(Land Revenue),
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Proceedings, No. 157, 12th May 1897.

MAY.

Passing orders on certain points raised by the Collector of Nellore regarding mining and prospecting for mica in patta lands, and requesting approval of Government to certain alteration in the Board's proposals approved in Government Order, No. 618, dated 13th November 1896.

PROCEEDINGS OF THE BOARD OF REVENUE
(LAND REVENUE).

READ—the following letter from W. S. MEYER, Esq., Acting Collector of Nellore to the Secretary to the Board of Revenue (Land Revenue), through the Conservator of Forests, Central Circle, dated 24th February 1897, Ref. Nos. 169 and 606, Forest:—

I have the honor to refer for the Board's orders the following points suggested by paragraph 9 of Government Order, No. 618, Revenue, dated 13th November 1896, communicated in Board's Proceedings, No. 436, dated 23rd November 1896.

2. First as regards *prospecting* by pattadars. Paragraph 9 of the Government Order (which approves the proposals in paragraph 9 of Board's Proceedings, No. 362, dated 24th September 1896) seems to imply that a prospecting license is necessary only in cases of ryots wishing to excavate "on a large scale;" and that small excavations may be carried on without any permission or check. Further, that whoever wishes to excavate "on a large scale" must first pay a security deposit of Rs. 500 and take out a prospecting license "in a modified form," and that whoever fails to take out such a license must be considered to have carried on mining operations and be held liable for payment of royalty at 50 per cent. *ad valorem* or a dead rent of Rs. 250 an acre whichever is greater.

3. The question is what is meant by the expression "excavation on a large scale"? There are three ways of determining the extent of an excavation and each is open to some objection. One way is to measure the depth and area of the pits excavated. The objection here is that a man may have to go very deep before he can get mica and after all he may find very little, while in other cases the mica may lie somewhere near the surface. Secondly, if there are several pits the "scale" may be determined by measuring the area inside a line taken round so as to embrace all the pits. In this case the objection is that a man may excavate two or more pits in different fields which fields are separated from each other. Lastly, the "scale" may be determined by the number of pits opened. Here also there is the objection that one good pit may turn out a better "find" than several ordinary ones.

4. These difficulties appear well nigh insuperable and I can only suggest as a way out of them that all prospecting operations carried on by a pattadar in a survey number measuring say more than 2 acres (or in contiguous survey numbers the aggregate area of which exceeds this limit) shall be subject to the preliminary license of the Collector which shall, as in the case of other prospecting licenses, remain ordinarily in force for a year. We shall then have a check on future mining operations by the pattadar and be able to examine his lands on occasion in view to ascertaining whether he is rendering them unfit for future cultivation. There is no

* Paragraph 2 of my mica circular read in Board's Proceedings, Mis. No. 335, dated 26th January 1897.

† Paragraphs 6 and 7 of do.

‡ Paragraph 4 of do.

will similarly be out of place with reference to a pattadar who is already paying the full cultivation assessment.

5. A deposit \$ from prospecting pattadar is, I think, ordinarily unnecessary, as

§ Paragraph 8 of my mica circular read in Board's Proceedings, Mis. No. 335, dated 26th January 1897. we can always refuse his relinquishment of the land until he has fully repaired the damages inflicted by his excavations.

6. When a pattadar commences prospecting within the terms of paragraph 4 *supra* without the Collector's approval, I would penalise him by enforcing the ordinary prospecting rules to their full extent.

7. Next we come to the case of *mining*. Paragraph 9 of Government Order No. 618, Revenue, dated 13th November 1896, is not very clear as to authorized mining by pattadars, but in view of the tremendous penalty that it imposes in the case of unauthorized mining, I take it that the intention is that a pattadar mining in his lands with the approval of the Collector shall simply pay the 5 per cent. royalty on outturn required from ordinary mining licensees. He would still have the advantage in respect to other licensees in that—

(1) As in the case of prospecting the conditions in regard to size of blocks and prohibited degrees of distance cannot reasonably be enforced against a pattadar.

(2) He will be exempt from surface rent.

(3) For the reason stated in paragraph 5 above, a *deposit* is unnecessary in the pattadar's case with reference to damage done to the land, I think, however, that, as a guarantee of good faith and to prevent a large number of petty mining transactions, a deposit of say Rs. 200 might be required from which the payments due for royalty might from time to time be adjusted.

(4) In the case of the pattadar the Collector's permission to mine should, I think, suffice. There need be no reference to the Board and Government as is necessary under paragraph 18 (1) of the Government of India Mining rules in the case of the outside *entrepreneur*.

8. Pattadars who have received permission to mine will of course have to submit the same accounts of their operations in view to the charge of royalty; but a simpler

* Annexure B to my mica circular above licensee * will probably suffice if countersigned by the village karnam. If my proposals above are approved, I will make out a form and submit it for the Board's approval.

9. The concessions above proposed should of course be rigidly restricted to pattadars who are actually mining or prospecting in person. Cases are occurring here in which a person who has leased out land from a pattadar for mining or got a power of attorney from him claims to stand in his shoes. In such a case I hold that the applicant, being himself a non-pattadar, falls under the scope of the rules. The same would be the case in regard to land outside his patta. If a pattadar wished to operate.

10. A considerable number of applications to prospect and mine for mica in patta lands have already been received and I therefore request the favour of early orders on the points raised above.

RESOLUTION—No. 157, dated 12th May 1897.

Under paragraph 4 of Standing Order No. 15 no previous intimation or permission is necessary for merely exploring or prospecting for minerals in patta lands and no charge is to be made therefor. If the operations amount to the regular working of a mine, intimation is required to be given to the Collector in view to his allowing the work to be carried on under such conditions and stipulations, as may be prescribed by the Board under the orders of Government, and on payment, in addition to land assessment, of the prescribed royalty (5 per cent. *ad valorem*), or dead rent (one rupee per acre) whichever is the greater in amount. If no intimation is given, it is open to the Collector to impose higher rates at his discretion.

2. The object of exploring and prospecting being merely to ascertain the mineral resources of the land, it will not be necessary for this purpose to make excavations on a large scale, but when more extensive operations are conducted, it is fair that they should

be treated as regular mining, the person concerned being called upon to pay a deposit of Rs. 500 and take out a mining lease in a form modified to suit the conditions of his tenure, while if he fails to do so, a penal rate of royalty (50 per cent. *ad valorem*) or a penal dead rent of Rs. 250 per acre should be charged. In Board's Proceedings, No. 362, dated 24th September 1896, approved in Government Order, No. 618, dated 13th November 1896, and printed in Board's Proceedings, No. 436, dated 23rd November 1896, the Board, through oversight, proposed that a pattadar carrying free prospecting to excess should be compelled to take out a prospecting license, whereas a mining lease would be the proper document for which to apply. The correction of this mistake will obviate many of the difficulties which have presented themselves to the Collector when endeavouring to give effect to the Board's instructions.

3. With reference to the Collector's query regarding the meaning of the expression "excavation on a large scale," he will be informed that no hard-and-fast rule can be laid down and that each case should be decided on its merits. For purposes of prospecting, one or two trial pits will generally be sufficient, regard being had to the fact that the quantity which can be removed free of royalty for experimental purposes is limited to 1 cwt. The temptation to carry on regular mining on the pretext of prospecting will no doubt be great and it will not be easy to guard against it; but the Collector must do the best he can by means of the taluk and village establishments and, if necessary, the Board will be prepared to sanction special inspecting establishments; but although there may be numerous petty evasions of the payment of royalty, the Board doubts the possibility of mining on a large scale being carried on without discovery—it being to the interest of every *bona fide* miner to bring such cases to notice.

4. The Collector's proposal in paragraph 9 to make a distinction between a pattadar, who actually mines, and a person who has obtained from him a lease of the mineral right in the patta land, cannot be approved. The concession allowed in paragraph 4 of Standing Order No. 15 relates to the land and it is immaterial by whom the mining operation is carried on. In the case of patta lands, the Collector's permission to mine is sufficient, but it is open to him to demand from the miner such accounts as he deems necessary for the purpose of levying the royalty prescribed.

5. The provisions contained in the Government of India rules regarding the size of the blocks, distance between blocks, surface rent, &c., do not apply to patta lands.

6. In Government Order, No. 618, dated 13th November 1896, Government has approved of the Board's proposal to levy in certain cases a penal royalty of 50 per cent. on the value of minerals removed without a mining lease. On further consideration, the Board considers that 25 per cent. would be sufficient. The right to impose any royalty is based on the right of Government to a share in the produce and 50 per cent. or half the gross produce is more than is covered by any sanction of custom. The approval of Government is therefore requested to the alteration and to the substitution of a mining lease for a prospecting license referred to in paragraph 2 *supra*.

(True Copy and Extract.)

Secretary.

To the Secretary to Government, Revenue Department.
" Collector of Nellore.

Copy to other Collectors.

" the Conservator of Forests, Central Circle,
Forest Branch, and Settlement Department.

Ed. A. F. Eccleston.

The Honble Mr. J. Grose C.X.E.

Secy. to Govt.

2. With regard to the other questions raised by the Collector as to conditions of working other than those embodied in the mining lease the Govt. observes that under the Standing Order on quarrying & mining as issued by Govt. in the first of the papers read above a pattadar mining in patta lands is to be carried on under such conditions & stipulations as may be prescribed by the Bd of Revenue under the Orders of Govt. In the same para. the same paper the Govt. has observed that under this rule nearly all the conditions of working set forth in the General Mining rules may be enforced in the case of a pattadar. 3. The Board is accordingly requested to report whether or not it is of opinion that which of these conditions should be enforced as to submit a set of draft rules on the subject.

G.O. Misc No. 3211 of 25th June 97.
The Board's

proposals in paragraphs 2 and 6 of its Proceedings read above—namely that pattadars excavating on a large scale be compelled to take out mining leases instead of prospecting licenses, and that the rate of penal royalty be fixed at 25 per cent. instead of at 50 per cent., are approved, and its views in the remaining paragraphs, concurred in by Govt.

To the Board (L.R.) Nos. 3-7-97

Note.

When the Board submitted proposals in November September last, to regulate mining in patta lands, the

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the Govt observed:- The
'regulation of mining in
'patta lands is a difficult
'question and further
'experience may indicate
'the desirability of modi-
'fying the Board's proposals,
'but for the present the Govt
'considers that they may be
'accepted'. (last sentence
of para 9 of L.O. 618 of 13.11.96).

The modifications which
the Board now considers
~~necessary~~ desirable, may,
it is thought, be approved.

The Govt has now finally amended
standing order No. 15 vide L.O. 379
of 25th May 1897. The provisions of
this standing order with regard to
patta lands are brief.

(1) No charge is made for prospecting
or exploring.

(2) But if mining is commenced
there must be prior to the collection
of the mining carried on under such
conditions & stipulations as may be
prescribed by the Bd & Govt. These
conditions & stipulations

are enforceable under
the rule which provides

that a penal assessment is leviable
if the conditions of working are
not complied with.

As regards this Govt has
pointed out to the Govt of
India that not if at all
of the conditions of a mining
case can be enforced
therefore in the case of
a patta land.

No conditions or
stipulations have yet been
finally laid down.

The Council of Revenue
comes up with several
difficulties as to mining in
patta lands.

A preliminary point is
when does "mining" commence
& "prospecting" cease? The
Bd's reply in para 3 may it is
submitted to be approved.

The other difficulties
may it is submitted to be
solved once & for all by laying
down what conditions &

that is sufficient experience.

11/5/97.
+ is (besides all that in
a mining lease) as
to size & balance of blocks
definite etc.

Stipulations a patta land is
to mine & the Bd may be asked
to report on the matter with
definite rules.

The Bd's present proposal may be submitted
to the Govt and the Bd called on to
submit rules on the other points.
12/5/97.

12.8.97