

**THE JAMMU AND KASHMIR ANCIENT MONUMENTS PRESERVATION
RULES, 2012**

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Tourism and Culture Department Notification SRO-313 dated 26th September, 2012.— In exercise of the powers conferred by section 20-B and 23 of the Jammu and Kashmir Ancient Monuments Preservation Act, Samvat 1977 (1920 A.D.), the Government hereby make the following rules; namely:—

CHAPTER I

Preliminary

1. *Short title and extent.* —(1) These rules may be called the Jammu and Kashmir Ancient Monuments Preservation Rules, 2012.

(2) They shall come into force from the date² these are published in the Government Gazette.

2. *Definitions.*— In these Rules, unless the context otherwise requires:—

- (i) 'Act' means the Jammu and Kashmir Ancient Monuments Preservation Act, Samvat 1977 ;
- (ii) "Copying" together with its grammatical variations and cognate expressions, means the preparation of copies by drawing or by photography or by mould or by squeezing and includes the preparation of a cinematographic film and video film with the aid of a hand-camera which is capable of taking films of not more than eight millimeters and which does not require the use of a stand or involve any special previous arrangement ;
- (iii) "Director" means Director Archives, Archaeology and Museums, Jammu and Kashmir Government and includes any officer who may be authorized by the Government to function as Director ;
- (iv) "Filming" together with its grammatical variations and cognate expressions, means the preparation of a cinematographic film including video film with the aid of a camera which is capable of taking films of not more than eight millimeters and which does not require the use of a stand or involve any special previous arrangement ;
- (v) "Government" means the Government of Jammu and Kashmir ;

1. Draft rules on the subject were issued vide SRO-104 of 2012 dated 27th March, 2012 inviting objections from the public within a period of one month from the date of publication of the said draft rules.

2. Published in Government Gazette dated 26th September, 2012.

- (vi) “Mining operation” means any operation for the purpose of searching for, or obtaining, minerals and includes quarrying, excavating, blasting and any operation of a like nature ;
- (vii) “section” means a section of the Act.

CHAPTER II

3. Manner of enquiry before an Ancient Monument may be declared to be Protected Monument. —(1) The Director shall, before issuance of a notification under sub-section (1) of section 3 cause a thorough enquiry as to the antiquity of the monument to be protected, and shall determine as accurately as possible the age of the Monument on such evidence as may be available to him.

(2) The Director, on obtaining evidence which he considers sufficient for declaration of a Monument to be a protected one, shall subsequently obtain the requisite revenue records from the concerned Revenue authorities and submit necessary proposal to the Government for protection of the same under intimation to the Deputy Commissioner concerned.

(3) While submitting a proposal to the Government, the Director shall, in consultation with concerned Deputy Commissioner specify the physical status of the monument, exact area of the land that is required for the purpose of preserving the monument in proper manner.

(4) The Government may issue a notification under subsection (1) of section 3, of the Act and invite objections for declaring the Ancient Monument as a State Protected Monument;

(5) A copy of the notification shall be fixed up in a conspicuous place on or near the Monument, mentioning therein the date on which it is so fixed.

(6) Notwithstanding the fact that no objection has been received within a period of two months from the date on which notification has been fixed under rule (5). The Government may either confirm or withdraw the notification on expiry of the period of two months.

(7) As soon as a notification has been confirmed under sub-section (3) of section 3, the Director shall take over the possession of the notified area and initiate necessary measures required for preservation of the State Protected Monument.

(8) The Director shall immediately install a Sign Board at the sight of the State Protected Monument at a conspicuous place indicating its historical background and cognizable offences for violating provisions of the Act for its proper preservation.

(9) The Director shall conduct physical status of every State Protected Monument and maintain report thereof on half yearly basis and detailed documentation record of each Protected Monument duly supported by photographs, site plan, building plan, drawings and elevations and a comprehensive report thereupon shall be submitted to the Government annually.

CHAPTER III

Access to Protected Monuments

4. *State Protected Monuments governed by agreement.* —(1) Access to State Protected Monuments in respect of which an agreement has been entered into between the owner and the Government under section 5 shall be governed by the terms of the agreement.

(2) A copy of the relevant provisions of the agreement or a copy of the order of the Director shall be exhibited in a conspicuous part of the Monument.

5. *Parts of monuments not to open.*— The Director may by order in writing direct, subject to the provisions of section 15, that a specified part of a Protected Monument shall not be open, permanently or for a specified period, to any person other than an Archaeological Officer, his agents, subordinates and workman and other Government servant on duty at such part.

6. *Protected Monuments when kept open.*— The Director may by order specify the hours during which a protected Monument shall remain open to public, and a copy of such order shall be exhibited in a conspicuous place at the site of the Protected Monument.

7. *Restriction of Public entry into a State Protected Monument during repairs.*— The Director may, by an order prevent entry of any person into the premises of the State Protected Monument during the period, the said Monument is under repairs or when an excavation is carried on at the site or when entry of persons is deemed by the Director to be detrimental in the interests of work of preservation. The order shall be exhibited at & conspicuous part of the Protected Monument :

Provided that where a State Protected Monument, or part of it, is used for religious worship/observances by any community, the person or persons whose entry into the Monument is required for the purpose of religious observances, shall not be prevented from entry into the premises of the State Protected Monument.

8. *Holding of meetings, etc. in State Protected Monuments.* —(1) No State Protected Monument, shall be used for the purpose of holding any meeting, reception party, conference or entertainment except under and in accordance with permission

in writing granted by the Government or the authority empowered by the Government in this regard.

(2) Nothing in sub-rule (1) shall apply to any meeting, reception party, conference or entertainment which is held within the premises of State Protected Monument in pursuance of a recognized religious usage or custom.

9. *Prohibition of certain acts within State Protected Monuments.*— No person shall, within a State Protected Monument:—

- (a) do any act which causes or is likely to cause any damage or injury to any part of the said Monument ; or
- (b) discharge any fire arms ; or
- (c) Cook or consume food except in areas, if any permitted to be used for that purpose ; or
- (d) hawk or sell any goods or wares or canvass any custom for such goods or wares or display an advertisement in any form or guide a visitor for monetary consideration ; or
- (e) beg for alms ; or
- (f) violate any practice, usage or custom applicable to or observe in the said Monument ; or
- (g) bring, for any purpose other than the maintenance of said monument, any animal ; or
- (h) park any vehicle except in the area, if any, reserved for the parking thereof ; or
- (i) carrying/use of polyethylene bags or any such allied material inside the Protected Monument.

10. *Entrance Fee.* —(1) Public entry into State Protected Monument shall ordinarily be free for the children up to 15 years of age. The Director, with the previous approval of the Government, may fix entry fees for other visitors :

Provided that the Director may on such occasions and for such periods as may be specified in the order direct that no fees shall be charged for entry into the State Protected Monument or part thereof.

11. *Punishment.*— Whoever contravenes any of the provisions of rules 6, 7, 8, 9 and 10 shall be liable to punishment of fine which may be extend to three thousand rupees but shall not be less than rupees five hundred.

CHAPTER IV

Construction and other operations within Protected Area

12. *Permission required for construction/excavation, etc.* —(1) No person shall undertake any construction, excavation, mining, quarrying, blasting or any other operation of a like nature within a protected area except under and in accordance with the terms of license / permission granted in this behalf by the Government under these rules.

(2) Every application for permission under sub-rule (1) shall be made to the Government in Form-I at least three months before the date of commencement of the construction or operation.

13. *Excavation for maintenance purposes.* —(1) Subject to the provisions of the Ancient Monuments Preservation Act, Samvat 1977, and the rules made there under, the Director may, with the previous approval of the Government, undertake excavations for Maintenance purpose at the site of an ancient Monument.

(2) No person other than the Director or any agent authorized by him, and the workman appointed or employed by him shall undertake any such excavation at the site of an ancient Monument.

14. *Archaeological Excavation.* —(1) No excavation shall be carried within the protected area without prior approval of the Government. The archaeological excavations shall be carried in most systematic manner backed with required expertise.

(2) After the conduct of excavations, a comprehensive report with the details of antiquities obtained from the site shall be submitted by the Director to the Government and the resultant finds shall be transferred to State Government Museums in the respective divisions for safe custody, public viewing and further research.

(3) All other types of secondary excavations undertaken for maintenance purpose at the site of an ancient Monument shall also require the permission of the Government.

15. *License required for excavation.* — No person, other than Director or an officer authorized by him in this behalf, shall undertake any excavation for archaeological purposes in any protected area except under and in accordance with the terms and conditions of a licence granted under rule 12.

16. *Application for licence.* — Every application for a licence shall be in Form-II and be made to the Director at least three months before the proposed date of the commencement of the excavation operations.

17. *Grant or refusal of Licence.* —(1) On receipt of an application under rule 12/rule 16 and after having been satisfied with the status of the applicant, the competence of the Director for excavation operations, the adequacy of the staff to be employed and other relevant factors, the Director, with the prior approval of the Government, may grant a licence in Form-III to the applicant :

Provided that no licence shall be granted unless the applicant has furnished security deposit of such amount not exceeding rupees ten thousand as the Director may, having regard to the circumstances of each case, require.

(2) The Director, by order may, for reasons to be recorded in writing, refuse to grant a licence in any particular case.

18. *Period of Licence.*— Every licence shall remain in force for such period not exceeding two years as may be specified in the licence :

Provided that the Director may on application made to him at least one month before the expiry of a license, with the prior approval of the Government extend the period by one year at a time so that the total period does not exceed three years.

19. *Cancellation of Licence.*— The Director may, by order, cancel a licence granted as above, if he is satisfied that the conduct of the licensee has not been satisfactory or in accordance with the conditions of the licence, or the further security demanded has not been deposited within the specified time :

Provided that no licence shall be cancelled unless the licensee is given an opportunity of being heard.

20. *Conditions of Licence.*— Every licence shall be subject to the following conditions, namely:—

- (a) the licence shall not be transferable ;
- (b) the licensee shall give to the Director, the concerned District Magistrate and the owner of the land to be excavated, at least fifteen days' notice in writing of the commencement of the excavation operations ;
- (c) the excavation operations shall be conducted under the supervision of the Director who shall be present at the excavation operations for at least three-fourths of the periods of operation ;
- (d) the licensee shall not, without the permission of the Director, dismantle or disturb any structures found during the excavation operation and shall make adequate arrangements for the safety of such structures and of the excavated antiquities till they are taken charge of by the Director ;

- (e) the licensee shall not subject any antiquities recovered during the excavation operations to any chemical or electrolytic process of cleaning without the written permission of the Director ;
- (f) the officer in charge State archaeology may inspect the excavation operations or any antiquities recovered during the operation and make notes on or copy or film the excavated Structures and antiquities ;
- (g) the licensee shall not discontinue the excavation operations unless he has given at least fifteen days' advance notice in writing to the Director ;
- (h) at the conclusion of the excavation operations, the licensee shall give notice in writing to the owner of the land specifying the nature of the antiquities, if any, recovered during the operation ;
- (i) the Licensee shall within three months of the completion of the excavation operations, submit the Director a summary report of the results of the excavation, and where the operations are carried on for a period of more than three months such report shall be submitted after every four months, and it shall be open to the Director to publish the report in his reports or reviews ;
- (j) the licensee shall, as soon as practicable, submit a detailed report to the Government, through the Director, on the antiquities recovered during the excavation operations ;
- (k) the Licensee shall deposit all the antiquities found during the excavation process with the Director.

21. *Recovery from security*.— The Director may, by order, direct the deduction, from the security deposit furnished by a licensee under rule 17 of:—

- (a) the value of any antiquities recovered during the excavation operations and lost or destroyed while in the custody of the licensee, and
- (b) any compensation payable by the Government to the owner or occupier of the land excavated by the licensee.

22. *Demand of further security*.— Where during the currency of a licence, any amount has been recovered under rule 21, the Director may require the licensee, within such time as he may specify, to deposit such further sum as security deposit as is equivalent to the amount so recovered.

23. *Appeal*.— Any person aggrieved of an order passed by the Director under rule 17 or rule 19 or rule 21 may prefer an appeal, within a period of 90 days

from the date of order, to the Government in the administrative department and the decision on such appeal shall be final and binding upon the parties.

24. *Return of security deposit.*— On expiration or earlier cancellation of a licence, the security deposited by the licensee or the balance thereof remaining after deduction if any, under rule 21, shall be refunded to the Licencee.

25. *Publication of the result of excavation.*— Save as otherwise provided in rule 20, the Director shall not, publish the results of the excavation without the consent of the licensee, unless the licensee has failed to submit the results within the period specified by the Director in this behalf.

26. *Removal of antiquities.* —(1) If the Government considers that any sculptures, carving, images, has reliefs, inscriptions or other like objects ought not to be removed from the place where they are, it may by notification direct that any such objects or any such class of objects shall not be removed without written permission of the Director :

Provided that the Government may, by an order, direct the removal of any of the objects, if it is in the opinion that such removal has become necessary for better maintenance these objects. The direction so issued by Government for removal of an object of antiquity, shall specify the place where such antiquities are to be preserved.

CHAPTER V

Miscellaneous

27. *Copying of certain Monuments.*— The Director may, by an order, direct that no person other than an authorized archaeological officer shall copy any specified Monument or part thereof except under permission in writing granted by him.

28. *Conditions of copying.*— Nothing in rule 27, shall be construed as authorizing any person other than an archaeological Officer while copying any such Monuments to bring into use such materials, equipments or artificial lights except flash light for exposure of a camera, or to erect such a scaffolding or to apply any such extraneous matter on the Monuments, as in the opinion of the Director are detrimental to the archaeological interest.
