

**FINAL ORDER No. 1/2008**

**DATED: 11.1.2008**

(In Revision Application File No. 16(11)/2003– RC-II

M/s Sisodiya Khanij Udyog : Petitioner

Versus

State Government of Madhya Pradesh : Respondent

ORDER

**(Under section 30 of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and Rule 55 of the Mineral Concession Rules, 1960(MCR).**

This revision application has been filed by M/s Sisodiya Khanij Udyog the petitioner, to challenge the Order No. 3-97/2000/12/2 dated 10.2.2003 passed by the State Govt. of M.,P (hereinafter referred to as the “Impugned Order”).

2. Through the impugned order the State Govt. has granted 11.02 Hects out of 60.64 Hects applied for M.L. for limestone/dolomite to the petitioner with certain conditions.

3. The petitioner has stated in the revision application that the petitioner submitted M.L. application to the State Govt. of M.P on 13.1.2000 for the mineral limestone/dolomite over an area of 60.64 Hects in village Bhatagawan Sunehra, Tehsil & Distt Katni M.P but the State Govt. granted only 11.02 hecets out of 60.64 Hects applied for. Even after granting 17.44 hecets to another applicant Shri Virendra Singh & Sons, the remaining area of 32.18 hecets is still to be granted. That some Khasras are recorded as Govt. land and vacant and

therefore there was no impediment in granting the same to him. Some Khasras are private land and he has submitted consent letters from Bhuswamies. The State Govt. without assigning any reason did not grant the applied area and also did not pass the speaking order on material grounds and documents.

4. The State Govt. has not furnished their comments in the matter.

5. The case was listed for hearing on 22.8.2006 at New Delhi. The petitioner was represented by Shri Satish Garg, Advocate. The State Government was represented by Shri S.K. Khare, Dy. Director, DMG.

6. The counsel for the petitioner submitted written argument thereby stating that the State Government has granted only 11.02 hect are out of 60.64 hecets. The State Government has also granted mining lease to Shri Virendra Singh over an area of 17.44 hecets. out of the same area. The remaining area of 32.18 hecets is still vacant, and area is available for grant but the State Government without assigning any reason did not grant the area to the petitioner. Khasra no. 215,238,239,241,248,252,259,264 and 266 is recorded as private land and the petitioner has already submitted the consent of the Bhumiswami before the State Government and khasra no. 222,237,240,254,255,256,251 and 271 are also recorded as Government land and also lying vacant. The petitioner has requested to grant the remaining area of 32.18 hecets in favour of the petitioner in the interest of natural justice.

7. The representative of the State Government has accepted that the opportunity of hearing has not been given to the petitioner in the matter and nothing more was argued by the officer of the State Government.

The case was taken up for hearing on 22.8.2006 where all the parties were present we have heard the arguments and also perused the record of the case.

8. The petitioner had applied for grant of mining lease over an area of 60.64 hec. in village Bhatagwan Sunehra Distt. Katni. If in the view of the State Government only 11.02 hec. of area was available at some point of time, then at that point of time the State Government should have afforded an opportunity of hearing to the petitioner under rule 26(1) of Mineral Concession Rules, 1960 (hereinafter referred to as the "Rules") and the State Government should have granted mining lease over 11.02 hec. in favour of the petitioner and rejected the application of the petitioner for the balance area. This has not been done by the State Government. However, the area of 17.44 hec. granted to Shri Virendra Singh by the State Government has not been objected to by the petitioner. The petitioner has requested to grant balance area which is available for grant only.

We are constrained to observe that the reasoning has not been given by the State Government to reduce the area for grant of mining lease in favour of the petitioner. The reduction in the applied area amounts to part rejection of the mining lease application and that can be done only after due observation of the procedure laid down under Rule 26(1) of the Rules which was not done by the State Government. The impugned order is accordingly set aside and the case is remanded back to the State Government to consider the mining lease application for balance area preferred by the petitioner on merits and in accordance with law.

Sd/-  
(M.K. Sharma)  
Addl. Govt. Counsel

Sd/-  
(Nawal Kishore)  
Director (Mines)