

File Order No. 10

Dated: 17.6.2008

(In Revision Application File No.16/(39)/2003-RC II

M/s Ramniwas Singh & Sons P. Ltd.

Petitioner

Versus

State Government of Madhya Pradesh :

Respondent

ORDER

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

This Revision Application (R.A.) has been filed by M/s Ramniwas Singh & Sons P. Ltd. to challenge the Order No. F-3/54/2002/12/2 dated 24-06-2003 passed by the State Govt. of Madhya Pradesh (hereinafter referred to as the Impugned Order).

2. Through the impugned order, the State Government has rejected the P.L. application of the petitioner for Limestone and Dolomite over an area of 1197.23 hectares in Bhattagwan, Sunhera, Distt. Katni, Madhya Pradesh.

3. The petitioner has stated that he had submitted an application on 13.1.2000 for PL over an area of 1197.23 hect. in village Bahatgaon Sunhera, Murwara, Distt. Katni for Limestone and Dolomite. State

Government has rejected all PL application and ML application on the ground that the area shall be considered to those applicants who applied for Quarry Lease as the Dolomite is of lower grade and marble is a minor mineral which are available in the applied area. The petitioner has submitted the revision application on following the grounds:-

- i) The said area was reserved by the Central Government and was thrown open for grant of PL and ML.
- ii) The condition to the effect that the area shall be considered for those applicants who applied for M.L. in para 3 of the order has not been mentioned in notification.
- iii) The order of State Government has not given any reasonable grounds.
- iv) The assessment of State Government that dolomite is of lower grade is without any basis and study.

4. The petitioner has filed the revision application against the State Govt.'s impugned order dated 17-06-2003. The petitioner has further stated that the State Govt. has rejected the PL application of the Petitioner on the ground that the area shall be considered to those applicants who applied for Quarry Lease (QL). The State Govt. by its order rejected the application on the ground that the applied area was available for lower grade of Dolomite and the State Govt. have taken consideration that area can be granted only for the QL and not for PL or ML. The State Government rejected all such applications preferred for grant of PL or ML and allowed the applications of such applicants who applied for QL. In the ground for revision it has been stated that the applied area was reserved by the Central Govt. and the same

was thrown open for grant of PL and ML hence the petitioner had submitted ML application. The State Govt. in para-3 of its order has stated that the area shall be considered for those applicants who applied for QL but in the notification such type of conditions was not mentioned which was issued under the Act by the State Govt. The State Govt. has considered the application of QL of other parties in the presumption of the lower grade of Dolomite available in the area. The order of the State Govt. itself is not a speaking order and without given reasonable grounds State Govt. has rejected ML application of the petitioner. The petitioner has further stated that under Section 5 (1) of MMDR Act 1957, the State Govt. has concluded that the area was reserved for lower grade of Dolomite and the petitioner could not understand as to how the State Govt. has assessed about the deposit of lower grade of Dolomite without getting the geological survey report. The order of the State Govt. is baseless and deserved to be set aside in the interest of justice. The question of grant of lease for quarrying purpose should be decided by the State Govt. on the basis of the quality of the mineral in a particular area. For this purpose a detailed survey of the area concerned was to be performed by a competent Geologist. The State Govt. has failed to follow proper course in disposing the several applications over the same area in accordance with the direction passed by the Hon'le Supreme Court in several cases. The grant of QL by the State Govt. in favour of M/s Krati Marbles, Alwar (Rajasthan) was also arbitrary and without applying the judicial mind. The application of Krati Marbles has been rejected by the State Govt. on 13.4.2000. Again Krati Marbles submitted Review Application on 7.3.2002 but the State Govt. accepted the application of Krati Marbles and granted the area of QL in their favour. The application of Krati Marbles was not pending while passing the impugned

order. The State Govt. defied all rules and norms in favour of Krati Marbles. Order of the State Govt. is thus liable to be quashed in the interest of the justice. The Petitioner has therefore, prayed to set aside the impugned order of the State Govt. dated 17.6.2003 and requested that the State Govt. may be directed to grant PL to the petitioner in the interest of justice and petitioner may also be given opportunity of being heard before passing any order.

5. The State Government has stated that Shri Sourabh Singh on behalf of Petitioner had appeared in for personal hearing and was informed that Limestone and Dolomite in applied area is not of use of industrial purpose and marble is available in that area. Accordingly the application of petitioner was rejected.

6. The case was taken up for hearing on 27.5.2008 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 BPL.

7. The petitioner submitted that State Government based its recommendation on the report of the Collector which stated that Dolomite available in the area was of inferior quality and was fit for grant under quarry. The State Government did not provide on opportunity of hearing under 26(1) of MCR, 60 and decision was taken without reliance on the geological report for the area. The State Government representative submitted that notice for hearing was issued on 29.4.2003 but failed to provide proof of service of the same.

8. We have heard the arguments advanced by all the parties concerned and have also perused the record of the case. We are of the view that since State Government has failed to provide the mandatory hearing under rule 26(1) of MCR, 1960 to the applicant and therefore State Government's impugned order dated 28.4.2003 is set aside with the direction to reconsider the matter after affording an opportunity of hearing and pass order as provisions of the Act and rules. R.A. is disposed of accordingly.

Sd/-

(M.A. Khan Yusufi)
Joint Secretary and Govt. Counsel

Sd/-

(Ajita Bajpai Pande)
Joint Secretary (Mines)