

**Final Order No.11/2008**

**Dated: 17.6.2008**

**(In Revision Application File No.16/(38)/2003-RC II**

M/s Sisodia & Company:

Petitioner

Versus

State Government of Madhya Pradesh :  
M/s Krati Marbles:

Respondent  
Impleaded Party

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 Sisodia & Co., Prop. Sourabh Singh Sisodia, Satyendra Bhawan, Ramniwas Singh Marg, East Bhatta, Katni (Madhya Pradesh) , to challenge the Order No. F-3/53/12/2 dated 17-06-2003 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 application of the petitioner for ML for Dolomite and Limestone over an area of 1197.23 hectores in Bhattagwan, Sunhera, Distt. Katni, Madhya Pradesh.

3. It has been cited in the impugned order that the State Government has offered opportunity to all the applicants of being heard in the matter on 2.5.2003, since more than one applications were received for grant of mining lease in the same area .The low grade dolomite available in the said area was

found suitable for cutting and polishing only. The application submitted by M/s Krati Marbles on 18.4.2000 for mining lease of minor mineral Marble has come under the category of automatic rejection and the applicant has submitted a revision application on 7.3.2003. The availability of industrial Dolomite and Limestone could not be proved and hence all the application received for grant of PL/ML were rejected and mining lease of Marble was granted in favour of M/s Krati Marbles, Shri Bholeshankar Minerals and Shri Sushil Kumar Yadav over an area of 2.26 hectars, 2.25 hectars and 2.25 hectars respectively in Khasra No. 429 in village Bhattangwan, Sunhera, Distt. Katni..

4. In the ground of revision the petitioner has stated that the State Govt. has rejected the ML 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. The ground for revision stated in the application is 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 has 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 were not mentioned which is 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 are 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. taken conclusion that the area was reserved for below range of Dolomite and the petitioner could not understand as to how the State Govt. has assessed about the deposit of below range 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 of Mining purpose should have to 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 while furnishing their comments on the Revision Application, among other things has mentioned that this case was taken up for hearing since many applicants had applied for mineral concessions in respect of major minerals Limestone, Dolomite and minor mineral, Marble. The Collector of Katni district has intimated that only minor mineral Marble is available in the said area. He has also intimated that as per the report of DFO, the said area is a revenue land and it is at a distance of 300 mtrs. from the forest boundary and that it is without trees and is composed of mountainous rocks. The mining inspector has intimated that this area is available for ML of minor mineral Marble only. On the date of hearing all the applicants requested for grant of ML in their favour. After detailed examination it was decided that since the availability of minor mineral Marble was proved, hence the applications for grant of PL/ML for major mineral Dolomite/Limestone were rejected vide departmental order dated 17.6.2003. After due consideration the ML for Marble was granted in favour of M/s Krati Marbles, Shri Bholeshankar Minerals and Shri Sushil Kumar Yadav over an area of 2.26 hectares, 2.25 hectares and 2.25 hectares respectively in Khasra No. 429 in village Bhattagwan, Sunhera, Distt. Katni for 10-10 years. In the light of the above, the State Govt. has requested to reject the Revision Application of M/s M/s Sisodia & Company and Shri Vishal Agarwal.

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 lease. The State Government did not provide an 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 17.6.2003 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)