

Final order No. 2/2008

Dated: 15.1.2008

(In revision application file No. 12(4)/2005-RC-II)

M/s Ashok Sarin

Petitioner

versus

State Government of Chattisgarh

Respondent

- | | | |
|-----|---|-----------------|
| 1. | M/s Hari Minerals | Impleaded party |
| 2. | M/s M.P. State Mining Corpn. | -do- |
| 3. | M/s Son Vijay Rolling & Engineering Ltd. | -do- |
| 4. | M/s G.R. Sponge & Power Ltd. | -do- |
| 5. | M/s Sun Flame Iron Steel | -do- |
| 6. | M/s Mahendra Sponge & Power Pvt. Ltd. | -do- |
| 7. | M/s Jaishala Power & Steel Ltd. | -do- |
| 8. | M/s Shivnath Organic Pvt. Ltd. | -do- |
| 9. | M/s Mangal Sponge & Steel Pvt. Ltd. | -do- |
| 10. | M/s Mega Power Builders & Devlopers Pvt. Ltd. | -do- |
| 11. | Shri Santosh Agarawal | -do- |

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 Ashok Sarin, the petitioner, to challenge the order No. RC No. F-2-16/2003/12 dated 18.1.2005 passed by the State Government of Chattisgarh (hereinafter referred to as the “ impugned order”).

2. Through the impugned order the State Government has rejected the application of the petitioner for grant of prospecting licence (PL) for Iron Ore, a major mineral over Forest Compartment No. 532(P)over an

area of 125 hect. situated in village Dongarbore (Forest Area-Boria Tibbu), Tahsil Mohala District Rajnandgaon and the area was granted to M/s Hari Mineral.

3. The ground of rejection cited in the impugned order is that the petitioner has showed less progress in establishment of mineral based industry.

4. The petitioner has stated in the revision application that the State Government erred in passing the impugned order without giving an opportunity of being heard to petitioner and the order is illegal, void and unconstitutional despite the fact that petitioner had filed the project report regarding installation of factory based on iron ore and the impugned order is liable to be set aside.

5. The State Government in its comments has stated that the proposal of M/s Hari Mineral for grant of PL in forest compartment No. 529, 531,532 and 533 in village Boria Tibbu of Rajnand Gaon over an area of 400 hecets. was sent to Central Government for their approval. All the applications received for the area were examined under provision of the section 11 of the MMDR Act read with Rule 35 of MCR, 1960 . The State Government decided to grant the area to M/s Hari Minerals , since they had made more progress in setting up of mineral based Industry as compared to other applicants by invoking the provision of section 11(5) of the MMDR Act. Shri Ashok Sarin had applied for an area of 125 hecets. in forest compartment 532(P).

6. The impleaded party no.1 in its comments has stated that State Government had given full opportunity to all the applicants who applied for grant of P.L. and the order was passed after hearing them. The State Government's order is well reasoned. Preference was given to I.P. No.1 since they have special knowledge and experience and have better financial resources in comparison to the petitioner. The State Government has granted the area in favour of impleaded party No.1 by invoking provision of sec. 11(5) of the MMDR Act, 1957. The total area of compartment No. 532 is 431.98 hect. and impleaded party has been given only 107 hect. out of it. Thereafter 324 hect. of area is still available for grant.

7. The case was taken up for hearing on 9.2.2007. The petitioner was represented by Shri R.R. Sharma, Advocate. The State Government was represented by Shri S.K. Trivedi, Joint Director and Ms. Yogmaya Agnihotri, Advocate. The impleaded party no.1 was represented by Shri R.S. Jaiswal, Sr. Advocate, Shri P.H. Agarwal and S.H. Agarwal. Impleaded party no. 6 was represented by Shri Vinod Chawada, Advocate. Rest of impleaded parties were absent.

The petitioner submitted that an application was made before the State Government on 11.8.1995 for grant of PL over an area of 125 hect. in forest compartment 532 (P), whereas the total area in this compartment is 431 hect. M/s Hari Minerals applied in compartment Nos. 529(P),531(P) and 532(P) over an area of 400 hect. whereas the total area of these compartments is 1349 hect. The area has not been notified, and therefore, the petitioner enjoyed the preferential right

for grant of PL in his favour but the same has been given to M/s Hari Minerals. The representative of M/s Mahendra Sponge informed that they had applied for PL on 3.9.2003 in compartment No. 532(P) over an area of 150 hec. The petitioner further stated that State Government is not empowered to review their own decision. Regarding impleaded party no. 6, the representative of the State Govt. has informed that they have already been allotted PL on 26.8.2006.

We have heard the arguments of all concerned and also perused the records of the case. The State Government has granted PL over only part of the area in Compartments No. 529(P),531(P), 532(P) and 533(P) in Boria Tibbu forest village of Distt. Rajnandgaon. The Petitioner has applied for PL over an area of 125 hec. in comp no. 532 (P). We have been informed that still the area is available for grant in Compartment No. 532(P). The State Govt. is therefore directed to reconsider grant of the remaining area as per the provision of the Act and Rules. The R.A. is disposed of with this direction.

Sd/-

(M.K Sharma)
Addl. Govt. Counsel(Law)

Sd/-

(A.K Singh)
Director (Mines)