

FINAL ORDER NO 37/2008

DATED: 11.09.2008

(In Revision Application File No. 9(12)/2006-RC-II)

M/s Divya Chemicals

Applicant

Versus

State Government of Gujarat

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. Divya Chemicals, hereinafter referred to as the "applicant", to challenge the Order No. PLM/1098-3333-Chh.1 dated 27.3.2006 hereinafter referred to as the "Impugned Order", passed by the State Govt. of Gujarat, hereinafter referred to as the "respondent".

02. Through the Impugned Order, the State Govt. has rejected the prospecting licence application of the applicant for limestone over an area of 100.29 acres in Village Kukaras, Taluk Veraval , Distt. Junagadh, Gujarat.

03. The petitioner company has stated in the revision application that their application for PL has been rejected on flimsy grounds. The applied area is a Gaudhar land (Gochar) and they would produce the consent of the Panchayat at the time of hearing.

04. The State Government in their comments have stated that the applicant has applied for 100 acres and 20 Guntha in various survey no of Kukrash village, the concern revenue authority has opined that the applied area except Sr. No. 207 is Gauchar land and Sr. No. 207 is Government land in which there is a gada road(Cart Track). The applied area is Gaucher and Grampanchayat has not recommended to grant this land for PL. There is shortage of Gaucher land in comparison of ratio of caltles.

05. Technical opinion given by the concerned authority is negative. The applicant was served notice vide Reg. Ad letter to remain present at the time of inspection of land but applicant did not remain present. So technical authority has given negative opinion. Before the refusal of renewal application, the applicant was heard by Deputy Secretary (Mines) on 27.3.2006. Thus application is rejected after personal hearing and careful consideration. In view of these facts, it will be quite proper and lawful to reject the revision application and to vacate the interim stay order granted in the matter.

06. We have gone through the case records and the impugned order dated 27.3.2006 passed by the Mines Department. The State Government has rejected the PL application of the applicant on the ground that the area applied for belong to Gram Panchayat in the form of waste graze Gauchar land while the survey No. 207 is Government land in which there is a gada road(Cart Track) and hence cannot be allowed by the Gram Pachhayat on the other hand. The State Government official, Shri J.M. Patel, submitted that the party has produced the consent of the Gram Panchayat that the land can be made available to the applicant and it will not affect the cattle grazing land. In view of the admission by the State Government, the

Impugned Order is liable to be set aside and the case is remanded for de novo consideration. The State Government shall pass proper order within three months from the receipt of this order.

Order

Accordingly we set aside the impugned order dated 27.3.2006 and remand the case to the State Government for de novo consideration in respect of the Panchyat Land in view of the consent of the Gram Panchayat for availability of its land and the same will not effect the cattle grazing land. The State Government shall reconsider and pass the order in accordance with law and with due compliance of the principles of natural justice within three months from the receipt of the order.

Sd/-

(T.N. TIWARI)
Additional Legal Adviser

Sd/-

(A.K. MEHTA)
Director (Mines)