

FINAL ORDER NO.02/08/R.C.-I

DATED: 6/2/08

(In Revision Application File No. 22(30)/2007-RC-I)

M/s Narayani Sons

Applicant

Versus

State Government of Orissa

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).

This Revision Application has been filed by M/s Narayani Sons, the applicant, to challenge the Order No III (A) SM-9/03/15272 dated 20/10/2006 passed by the State Government of Orissa (hereinafter referred to as the "Impugned Order")

2. Through the Impugned Order the State Government has rejected the request of M/s Narayani Sons for renewal of Mining Lease for iron ore over an extent of 141.336 hectares in village Laupada, District Keonjhar, Orissa.

3. The grounds of rejection cited in the impugned order is that the applicants had stopped mining work since 1.6.1999 and the application

filed for renewal of mining lease was in contravention of the provisions of Rule 24(A)(I) of the Mineral Concession Rules, 1960

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(MCR). The applicant did not possess a mineral based value addition industry in the State and that the application for condonation of delay in submitting renewal application for mining lease by the applicant had been rejected by the respondent. The applicant was given adequate opportunity to be heard under Rule 26(1) of MCR, and after hearing on 15.7.2006, the Respondent decided to reject the renewal application of the Applicant.

4. The Applicant in the Revision application has stated that he complied with directions of the Respondents to produce the necessary documents and clear the outstanding dues to the Respondent. Further he has stated that due to lack of demand for low grade iron ore available in his lease area, the applicant had to temporarily discontinue mining operations from 1.6.1999 after giving prior notice under the MCDR, 1988. Due to non-renewal of mining lease, even under deemed extension clause as provided under Rule 24(A) (6) of MCR, the applicant has claimed that he was unable to restart his mining operations from 1.6.1999 to 30.11.2000. The applicant has also stated that due to illness he was unable to submit renewal application for mining lease on time, for which he had sought condonation. The applicant has cited several other instances, where the Respondents had

condoned the delay in filing application of renewal of mining lease. Further the applicant has cited judgment in Madan Lal Jain vs. Union of India (AIR 1989 Patna 318- 320). The applicant has also stated that since the occurrence of the iron ore in the area under reference is sporadic and consists of Float ore, and the total estimated quantity is 0.252 million tonnes only, it is not suitable for establishing a value-addition plant. Also, the applicant

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has claimed that setting up of a value addition plant is not essential for renewal of mining lease, as evidenced by several such approvals given by the Respondent in past. On these grounds the applicant has sought setting aside the impugned order No III (A) SM-9/03/15272 dated 20/10/2006, delay in filing of application for renewal of mining lease be condoned and the respondent be directed to reconsider the applicant's application for renewal of mining lease.

5. The State Government in their comments has stated that the application filed by the applicant for renewal of mining lease was deficient in necessary documents and payment of mining dues by the applicant was outstanding. The State Government has challenged the contention of the applicant that all dues had been paid on the grounds that the applicant had settled all his dues on a date later than the permissible date, which violated the provisions of 4th proviso to Rule 22 (3) of MCR. The respondent has further claimed that the applicant has

not yet complied with the direction of the Director of Mines to submit approved mining plan. The applicant was unable to mine the said area due to his financial problems. The applicant has an additional mining lease in the State and thus is capable of setting up a value addition plant. Out of the list of persons cited by the applicant who have been granted approval for renewal without insisting for setting up of value addition plant in the state, several persons/companies have signed MoUs for setting up steel plants in the State. Based on the above the State Government have claimed that they have rightly rejected the applicant's case after giving due hearing to the applicant.

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6. The case was taken up for hearing on 06/11/2007 at New Delhi. On behalf of applicant, Shri Niranjana Agarwal and Shri Biswajit Das were present. Shri Ganesh Mohanty, Jt. Director, and Niranjana Nayak, A.L.O., represented the State Government.

7. We have heard all the parties concerned and have also perused the record of the case. The applicant in the submission has stated that in view of no demand of the low grade iron ore during the period the mining operations were stopped w.e.f. 01/06/1999 for which due intimation was given to the State Government. The applicant's Mining Lease was due to expire on 30/11/2000 and he applied for the same on 13/07/2000. The delay was caused due to medical reasons but the

renewal application was made well before the expiry of the lease period as prescribed under rule 24(A)(10) of MCR, 60. The applicant claimed that State Government has got power to condone the delay by resorting to provision of rule 24(A)(10) of MCR, 1960. The Tribunal (Mines) in a similarly placed matter in FO No. 89/2000 dated 19/6/2000 had passed an order condoning the delay in filing of RML application. State Govt. submitted that the application of the applicant was time barred and hadn't submitted no dues certificate State Govt. also submitted that the provision of rule 24(A)(6) were applicable in the case but the power was not exercised by the State Govt. The applicant further submitted that the leasehold area has reserves to the extent of 0.252 M.T, which is not conducive for setting up a value addition plant. A plant of minimum capacity of 1 M.T. is viable, and for that 1.6 MT of reserve per annum is required. In such a case the reserve of the applicant will last only for 3 months. Also, the grade of iron ore found in the area is also not technically of that

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standard. State Govt. was asked to submit written submission in the matter and the same have not been sent. The applicant was also asked to furnish written submissions in the matter. The Applicant has submitted that the Supreme Court of India in AIR 1987 SC 1353 @ para 3 has observed that in section 5 of the Limitation Act, the expression "sufficient cause" employed by the legislative is adequately elastic to

enable the courts to apply the law in a meaningful manner which subserves the ends of Justice. The Director of Mines of the State Govt. had recommended for grant of renewal of M.L. The demand of dead rent and surface rent amounting to Rs 2,08,215/- was also paid by the applicant in accordance with the demand notice. State Govt. had also accordingly issued mining dues clearance certificate (MDCC). The State Govt. at no point of time earlier asked for setting up of industry. The applicant had also been asked to submit mining plan for renewal of M.L. and obtain forest clearance from Ministry of Environment and Forest which was required for the purpose of renewal of M.L.

8. State Govt. is empowered to condone delay in filing of application for renewal of M.L. under rule 24A(10) of MCR, 1960 if the application is made prior to the expiry of the mining lease, which in this case was done by the applicant in filing renewal application on 13/7/2000 where as the M.L. was due to expire on 30/11/2000. The State Govt. has also pointed about no plan to set up value added industry by the applicant which in their case is not viable in view of the position explained by the applicant. Since the delay in filing of RML has been caused due to reasonable grounds mentioned by the applicant and State Govt. had asked the applicant to submit Mining

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Plan and furnish clearance under the Forest Conservation Act, 1980 indicates that the State Govt. had considered to renew the said mining lease otherwise the requirement of fresh mining plan and clearance

under FCA, 1980 would not have arisen. In case the applicant had filed application for renewal of mining lease in time as prescribed in Rule 24A(1) of MCR, 1960 and till the time the State Govt. had passed order on the renewal application for mining lease, the applicant would have continued mining operation under the provisions of Rule 24A(6) of MCR, 1960. The mining operations were stopped in 1999 due to reasonable grounds for which due intimation was given to the State Govt. and renewal application was filed late owing to medical grounds. In view of the foregoing the impugned order of the State Govt. dated 20-10-2006 is set aside and the delay in filing of the renewal application is condoned. The State Govt. is directed to consider the RML application of the applicant and pass order on merits as per the provisions of the MMDR Act, 1957 and the rules framed thereunder and permit the applicant to continue mining operation under the provisions of Rule 24A(6) of MCR, 1960 till the disposal of renewal application for mining lease. The R.A. is disposed of accordingly.

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

(Nawal Kishore)
Director (Mines)

