

DATED 10/10/08

(In Revision Application File No.25/(68)/2005-RC-I)

Shri Balu Lal Sen - Applicant

Vs

State Government of Rajasthan- 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).

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This Revision Application (RA) dated 8-12-2005 has been filed by Shri Balu Lal Sen, the applicant, to challenge the Order No. DMG/Bhil/CC-3/F.1 (1) 132/03/3286 dated 9.9.2005 passed by the Government of Rajasthan (hereinafter referred to as the "impugned order").

2. Through the impugned order, the State Government has rejected the application dated 4.6.2003 of the Applicant for grant of Mining Lease (ML) for minerals Felspar & Quartz over an area of 5 hectares in village Barana, Taluk-Asind, District Bhilwara (Rajasthan).

3. The applicant in the grounds of revision has stated that he had been granted a Prospecting Licence over an area of 162.5 hectares for a period of two years from 15.6.2001 to 14.6.2003 in village Barana, Distt. Bhilwara. He applied for grant of a Mining Lease for an area of 5 hectares on 4.6.2003. He also submitted the revised map on 10.7.2003 over an area of 5.00 hectare and also deposited Seemankan duty on 23.4.2004 and got the area demarcated on 22 & 23 April, 2004. The applicant was asked to furnish NOC from District Collector, Bhilwara as the applied area covers 3.41 hectares of pasture land. The applicant asked for three months' time for initiating action, as he was not keeping well. The applicant made efforts to seek NOC from Distt. Collector. In between, the State Government rejected his application for mining lease for want of NOC. Distt. Collector and Mining Department both are part of the State Government and furnishing of NOC is a matter between these two bodies. Report of the Revenue Officer in the matter has been furnished. Consideration of the NOC at the Distt. Collector's level and rejection of the applicant's application for ML on that basis is not correct. The applicant has spent a huge amount on the prospecting operation. The applicant has no other source of income.

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4. The State Government in their comments has stated that the applicant was given a notice on 17.3.2005 to furnish the NOC and his application was rejected on 9.9.2005. Therefore, he has been given sufficient time. District Collector, Bhilwara vide its order dated 4.1.2005 has not allowed mining lease in pasture land and therefore not issued NOC.

5. The applicant in his counter comments to the comments of State Government has reiterated the grounds as mentioned in the RA and stated that he has preferential right for grant of mining lease.

6. The case was taken up for hearing on 21.01.2008 at New Delhi. State Government was represented by Shri D.S. Maru, Addl. Directed (Mines), Udaipur Zone. The applicant was represented by Shri Sanjeev Talwar, Advocate. We have heard the arguments of all concerned and have also perused the records of the case. We notice that the area was held under PL by the applicant and therefore enjoys preferential right subject to conditions mentioned in the statute. State Government had asked for NOC from the applicant over an area of 3.41 hectares since the same is a pasture land. The Applicant failed to produce the same within the stipulated time.

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However, on the application of the applicant, the State Government sought report in the matter and the same was given by office of the Collector on 2.11.2006. Revenue Deptt. Conveyed no objection on 8.12.2006 and the office of the Collector finally conveyed no objection vide letter dated 25.6.2007. It may thus be seen that the delay held in the matter is on account of administrative formalities/procedure and the applicant can't be held responsible for the delay caused in obtaining NOC in the matter.

7. Keeping in view of the no objection dated 25.6.2007 from the District Collector and also the fact that the applicant was the PL holder for the area in question for ML and such enjoys preferential right, we set aside the impugned order dated 9/9/2005 of the State Government. Accordingly the State Government is directed to reconsider the ML application of the applicant as per law.

(M.K. Sharma)  
Addl. Legal Adviser

(Nawal Kishore)  
Director (Mines)