

In the Court of Mines Commissioner, Bihar, Patna

Dated 26.09.2017

File No. 01/MM/4/13

**PRESENT :- K.K. Pathak, I.A.S.,
Mines Commissioner**

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M/s Kalyanpur Cement Ltd, Mauja New Banjari

Vs.

State of Bihar
=====

ORDER

26.09.2017

This is a case of renewal of New Banjari Mining Lease in favour of M/s Kalyanpur Cement. The area of the lease is approximately 30.04 acres. The renewal of the lease is pending with the Department for the last many years.

Earlier the Department could not finalise a decision owing to the fact that a case was pending on the Hon'ble High Court, Patna CWJC No. 7625 /2009. The said Writ was finally disposed of by the Hon'ble High Court vide order date 10.05.2016 paving the way for this Department to finalise the issue of the renewal of the mining lease.

Accordingly, it was thought appropriate to hear the Representative of M/s Kalyanpur Cement before taking a

view on the matter. The M/s Kalyanpur Cement was heard on 18.09.2017 who also filed a written submission with regard to the issue.

As per the Representative of M/s Kalyanpur Cement, the lease was granted for 20 years in December 1992 and they filed a renewal Application in November 2011. However, the Company could not obtain the environmental clearance on the ground that the said mining lease area was within 1 km of the boundary of Kaimur Wild Life Sanctuary. And accordingly, the ToR was denied by the Ministry of Environment and Forest. The Representative further claimed that after rejection of ToR by the Ministry of Environment and Forest, the Company has made an appeal to the Hon'ble Minister for review of the decision. The said appeal is pending with the Minister.

The Representative further assured that they will take the Environmental Clearance in respect of New Banjari Mining Lease immediately after the disposal of their appeal by the Hon'ble Union Minister.

Accordingly, the Representative has prayed that the instant proceeding for renewal of New Banjari Mining Lease be kept in abeyance till the disposal of their appeal by the Ministry of Environment and Forest.

Having heard the Representative of the Company and having perused the papers available on records, my own findings on the instant issue are as under:-

- (a) That the said mining lease was initially granted to M/s Kalyanpur Cement for a period of 20 years on 03.12.1992. The Company again applied for a renewal of the lease in the year 2011.
- (b) I also note that under Section 8A(5) of the Modified Mines and Mineral (Development and Regulation) Amendment Act, 2015, where mineral is used for captive purpose, the period of lease may be deemed to be extended up to 31.03.2030 or up to a period of 50 years, whichever is later. However, the Provision of 8A(5) shall not be applicable where the renewals have been rejected or lapsed.
- (c) In the meantime, the mining operations by the Company remained an abeyance for want of various compliances which were required for M/s Kalyanpur Cement but which they could not fulfil. Notable amongst these were the following:-

- i. That the Company failed to obtain the NOC under the Wild Life Protection Act.
- ii. The Company failed to obtain the Environmental clearance under the Environmental Protection Act, 1986.
- iii. The Company did not obtain the consent letter from Bihar Pollution Control Board under AIR (Pollution Prevention and Control) Act, 1981 and Water Act.
- iv. The Company is still to get clearance under Section 2 of Forest Conservation Act, 1980.
- v. The Company discontinued mining operation for more than two years and thereafter, failed to seek an exemption within six months as required under Rule 28A

of the Mineral Concession Rule, 1960.

- vi. The company could never submit any Mining Plan with regard to the said lease.

Conclusion:-

From the above, it is clear that the lessee M/s Kalyanpur Cement has not been able to fulfil the requirements for renewal and as such it is not possible to renew the lease and in the light of the above, the request for renewal of New Banjari Mining Lease is hereby rejected.

Dictated & Corrected

Sd/- (K.K. Pathak) Mines Commissioner Mines and Geology Department, Bihar	Sd/- (K.K. Pathak) Mines Commissioner Mines and Geology Department, Bihar
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Memo No.-...2912.../M, Patna, Dated-...03.10.17.....

Copy to :- Collector, Rohtas/ Assistant Director, Rohtas /M/s- Kalyanpur Cements Ltd., Maurya Centre, 1-Fraser Road, Patna-800001/ I.T. Manager, Mines & Geology Dept. Patna for information and necessary action.

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Under Secretary to Govt.