

**THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

Writ Petition (M/S) No. 229 of 2010.

Sachin Tiwari, aged 35 years Son of Sri Naveen Chandra Tiwari,  
Resident of Village Jalthakot, Tehsil and District Bageshwar.

... Petitioner.

Vs.

1. Principal Secretary, State of Uttarakhand, Dehradun.
2. District Magistrate, District Bageshwar (Uttarakhand)
3. Senior Mining Officer, Dehradun, State of Uttarakhand.
4. Sri Ramesh Singh Majila S/O Sri Nain Singh Majila, Resident of Village Pangchaura, Tehsil Kanda, District Bageshwar.

...Respondents.

*Date February 26, 2010.*

**Hon'ble B.S.Verma, J.**

(Stay Application No. 1011 of 2010)

Mr. Vijay Bhatt, Advocate, learned counsel for the petitioner.

Mr. K.P.Upadhyay, learned Additional Chief Standing Counsel for the respondents No. 1 to 3.

Sri Arvind Vashist, Advocate, learned counsel for the respondent no.4.

Heard learned counsel for the parties and perused the record.

By means of this writ petition, the petitioner has sought the following reliefs:-

(i) To issue a suitable writ, order or direction or a writ in the nature of certiorari thereby quashing impugned order dated 6.1.2010 passed by respondent no.1 which is Annexure No. 19 to the writ petition.

(ii) To issue suitable writ, order or direction or a writ in the nature of mandamus commanding the respondent nos. 1 to 3 to

decide the matter of the petitioner and grant him prospective license/mining lease (PL/ML) as per rule.

(iii) To issue such other suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(iv) To award the cost of the petition to the petitioner.

According to the petitioner, he applied for the grant of prospective licence in his favour as per Mineral Concession Rules, 1960 (*for short the Rules*) to the respondent nos. 1 to 3 in respect of 18 Hectares of land of village Jalthakot and Baitoli, district Bageshwar on 25.5.2004, which has been annexed as Annexure-1 to the petition.

The grievance of the petitioner is that the application of the petitioner is still pending. The prospective licence has been granted in favour of the respondent no.4, while recommendation was made for grant of prospective licence by the authorities on the basis of the Government Order dated 7-01-2004 issued by the State of Uttarakhand wherein priority is to be given to the land owners. According to the petitioner, he is also landholder of some part of the land and he has also obtained consent from other land owners.

It is further contended that earlier the application of respondent no.4 was not recommended by the authorities concerned.

Learned counsel appearing on behalf of the respondent no.4 has raised a preliminary objection that against the grant/letter of intent of prospective licence, revision may be preferred under Rule 54 of the Rules.

Since statutory remedy of filing revision is available to the petitioner, I am not inclined to entertain the writ petition on the ground of alternate remedy.

On the ground of alternate remedy, the writ petition is hereby dismissed in limine. The petitioner may prefer revision, if so advised.

**(B.S.Verma,J.)**

