

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No. 2 of 2022

Date of order: 18.10.2022

In Re suo motu illegal mining of vs State of Meghalaya
coal in the State of Meghalaya

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice H. S. Thangkhiew, Judge
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner : -

For the Respondent : Mr A. Kumar, AG with
 Ms R. Colney, GA
 Dr N. Mozika, DSGI with
 Ms S. Rumthao, Adv.
 Mr S.P. Mahanta, Sr Adv. with
 Mr M. Lyngdoh, Adv.
 Mr M.Z. Ahmed, Sr Adv. with
 Ms B. Dutta, Sr. Adv.

This matter was directed to appear today, inter alia, to receive a comprehensive report for the final transportation and auction of the previously mined coal upon measuring the quantum of coal at every site where it now lies deposited.

The State has filed a report dated October 17, 2022 incorporating a notification dated October 13, 2022 issued by the Mining and Geology Department of the State and indicating the revised comprehensive plan

for handing over the extracted coal to Coal India Limited for auction. The notification runs into nearly 30 pages and includes several chapters.

The first chapter deals with the identification and notification of designated depots; depot infrastructure; responsibility of transportation of coal to designated depots; mode and manner of issuance of transit pass for transportation of coal to designated depots; form and particulars of transit pass; mode and manner of transportation of coal from pitheads to designated depots after issuance of transit pass; verification process at designated depots; auction process; payment and maintenance of accounts; post auction transportation and other related aspects covering the interest of the purchasers.

The notification appears to be comprehensive in the aspects covered by it, particularly to ensure that fresh illegally mined coal is not mixed up with the previously mined coal and passed off as such.

The second chapter of the notification covers the procedure of transportation of the extracted coal. The third chapter details a scheme for the sale of the extracted coal through spot and e-auction. This chapter covers the bidding process and the procedure for delivery of coal.

It is hoped that the timelines indicated and the methodology suggested would be adhered to without any fail and the secretary in the Mining and Geology Department of the State along with the Chief

Secretary to the State will remain responsible for strict adherence to the terms indicated in the notification of October 13, 2022.

It is recorded that the entirety of the previously mined coal, in terms of the proposal incorporated in the notification, is scheduled to be disposed of by the end of 2023. The State and its officials should ensure that the activity is completed sooner rather than later. Coal India Limited and MSTC Ltd should also render adequate assistance and should immediately report to Justice Katakey in the event of any failure on the part of the State to adhere to the timelines or terms or upon any impediment being brought in the way of the early and quick disposal of the previously mined coal.

Justice Katakey will continue to monitor the process on a periodic basis and all information sought should be provided to Justice Katakey by the State, Coal India Limited and MSTC.

Dr Mozika, learned DSGI, seeks leave to intervene as Advocate of this Court and submits that the commercial terms for the auction may not have been appropriately fixed. He points out that the earnest deposit in the first round of auction has been kept so low that successful bidders have not come to collect the quantities allotted to them. The suggestion is that if the quantum of earnest deposit is substantially raised, serious parties will be in the fray and the process may be expedited.

It is hoped that Justice Katakey looks into this aspect of the matter so that a process of re-auctioning and consequent delay can be avoided.

The other part of the matter is that the primary premise of the orders passed by the Supreme Court based on the initial orders passed by the National Green Tribunal is to completely arrest the illegal mining of coal in the State. The other directions issued by the NGT and the Supreme Court are incidental to the principal part of the order and are to ensure the confiscation and disposal of the previously illegally mined coal.

One must not miss the wood for the trees by ensuring compliance with the incidental directions for the disposal of the previously illegal mined coal without being alive to the complete prohibition of coal mining in the State otherwise than in accordance with law.

A policy has been notified for mining of coal in the State on March 5, 2021 and several applications have been received. However, no license has yet been issued for any mining thus far. Yet, rampant illegal mining of coal continues despite orders of this Court dating back, probably, to March of this year. The NGT and Supreme Court orders have been in place from 2016 or earlier. Apart from the dangerous form of rat-hole mining that is undertaken, particularly in the eastern part of the State, there are murmurs that the illegally mined coal in the State is smuggled out of the State and is returned for apparent export to a neighbouring

country on the basis of fabricated documents to suggest that the coal originated in some other State. There are also credible reports that a substantial part of the illegally mined coal in the State is transported to other States, primarily on trucks bearing Nagaland license plates and with papers showing the coal to have been mined in some other North-Eastern State.

Indeed, it may not be any coincidence that the entire stretch of the national highway in the Goalpara district of Assam between Dudhnoi and Krishnai is littered with coal dumps on either side of the road replacing agricultural fields. It is of significance that there are at least three roads between Dudhnoi and Krishnai that lead to Meghalaya, two of them to the North Garo Hills District and the third being a road via Paikan that goes to Tura.

The Chief Secretary to the State and the Director-General of Police will be accountable if any form of illegally mined coal is henceforth discovered in the State. The Director-General of Police will instruct all Superintendents of Police in the various districts to ensure that not an ounce of illegally mined coal is allowed to pass, whether in trucks or other vehicles. The Superintendents of Police in all districts in the State are put on notice that if illegally mined coal in the State is found to have

originated in or passed through their jurisdiction, they shall be held in contempt.

The Chief Secretary, the Director-General of Police and all other police personnel will ensure strict compliance in such regard and will not bow to any political interference in the matter.

Let the matter appear in the second week of November, 2022, to ascertain both the progress made in terms of the notification dated October 13, 2022 and the measures that may have been taken by the Chief Secretary and the Director-General of Police to completely arrest all forms of illegal mining of coal in the State.

Learned Advocate-General points out that there may be a slight modification as to whether any payment would be made to the MSTC or, to what extent. It will be open to Justice Katakey and the State to arrive at an appropriate decision in such regard notwithstanding the notification.

List on November 9, 2022.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
18.10.2022
"Sylvana PS"