

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No.2/2022

Date of order: 07.12.2022

In Re: (Suo motu): Illegal mining Vs. State of Meghalaya
of 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 in PIL No.2 of 2022:

For the Petitioner : -

For the Respondents : Mr. A. Kumar, Advocate General with
Mr. K. Khan, Sr.GA
Ms. R. Colney, GA
Dr. N. Mozika, DSGI with
Ms. A. Pradhan, Adv
Mr. M.Z. Ahmed, Sr.Adv with
Mrs. B. Dutta, Sr.Adv
Mr. N. Syngkon, Adv

The matter was directed to appear today to monitor the progress made in the auction of the coal that was mined prior to the imposition of the ban by the National Green Tribunal as upheld by the Supreme Court.

Justice B.P. Katakey (retired), who has been appointed to implement the directions issued by the NGT and the Supreme Court, has filed the ninth interim report. Apart from certain procedural matters and the amendments to the standard operating procedure earlier set, the report reveals a serious issue from which it is evident that the State continues to

play fast and loose with the Court. In course of re-verifying and reassessing the quantity of coal that had been mined prior to the prohibition and that had to be auctioned, the Chief Secretary to the State has stated in a report of September 20, 2022 that 32,56,715 MT of coal was available for auction. The status after further verification, as indicated in the latest report filed by Justice Katakey, is that prior to the imposition of the ban the total quantum of coal available was as follows:

(1) East Jaintia Hills	-	8,90,670 MT
(2) West Khasi Hills	-	3,86,253 MT
(3) South Garo Hills	-	3,77,790 MT
(4) South West Khasi Hills	-	2,99,545.816 MT
Total	-	19,54,258.816 MT

What is apparent is that in addition to the previously illegally mined coal measuring approximately 19,54,259 MT a further 13 lakh MT of coal was illegally mined, transported and discovered which the State sought to pass off as coal mined prior to the imposition of the ban. There is, no doubt, further amounts of coal, in addition to the total quantity of 32.56 lakh MT as indicated in the Chief Secretary's report of September 20, 2022.

For such purpose, Justice Katakey has suggested drone videography and a meeting in such regard was held on December 2, 2022. It is hoped that the directions issued by Justice Katakey are adhered to.

There is a further point which finds mention in the report and needs to be noticed. According to the information furnished by the Secretary to the State in the Mining and Geology Department, a large number of coke oven plants and ferro alloys plants are operating in the State but only a limited few have both consent to establish and consent to operate granted by the Meghalaya State Pollution Control Board.

Apart from the fact that several coke oven and ferro alloys plants are operational without due permission, the source of coal at these plants has neither been identified nor reported on by the State. This has to be immediately done and both the Secretary in the Mining and Geology Department and the Chief Secretary will be responsible in such regard.

The State reports that the processes of transportation and auction of the previously mined coal are continuing as per the timelines indicated by the State. However, the State says that since an additional direction was issued by Justice Katakey to fit the vehicles transporting the coal with GPS devices, that has taken some time. The vehicles have now been fitted with the appropriate device and it is expected that by the end of December, 2022, the bar-chart in such regard would be adhered to.

A report was sought by Justice Katakey from the Deputy Commissioner, East Jaintia Hills on a news report appearing on a website under the caption “Wonder caves in Jaintia Hills at risk from rampant

mining”. The report furnished by the Deputy Commissioner on December 3, 2022 reveals attempts at illegal mining of coal in the recent past including blasting that has endangered the Krem Lait Prah cave situated at Shnongriam village, East Jaintia Hills. The Deputy Commissioner has also reported that directions have been issued to the relevant Magistrate to undertake frequent inspections and to impose prohibitory orders under Section 144 of the Criminal Procedure Code, 1973.

It, thus, appears that despite the several orders of this Court issued as a consequence of the ban imposed by the NGT as upheld by the Supreme Court, illegal mining of coal continues in the State with, possible, State participation and even encouragement. Since previous orders of this Court had indicated that the relevant Superintendent of Police would be held in contempt if illegal mining or transportation of illegally mined coal was discovered within his jurisdiction, let a rule of contempt be issued against the Superintendent of Police, East Jaintia Hills based on the report dated December 3, 2022 filed by the Deputy Commissioner of the same district.

As to the transportation and auction of the previously mined coal, the exercise should proceed as planned. The directions issued by Justice Katakey should be adhered to and the drone videography and

photography that Justice Katakey has suggested should be completed without undue delay. The remainder of the coal out of the approximately 32,56,715 MT of coal as indicated in the Chief Secretary's report of September 20, 2022 has also to be auctioned since that is illegally mined. Justice Katakey will oversee the transportation and sale of even such part of the coal and any further quantity that may be seized by the State as a consequence of the illegal mining that continues.

Let a copy of the ninth interim report be handed over to learned Advocate-General for circulation to any of the parties interested in obtaining the same.

The matter will appear a week after the vacation.

List on February 7, 2023.

The contempt rule will also be returnable on the same date.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
07.12.2022
"*Lam* DR-PS"