

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No. 2/2022

Date of order: 07.02.2023

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

For the Petitioner : -

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

There are two parts to this matter: the continued illegal mining of coal and the rampant transportation thereof with the possible connivance of the State; and, the manner in which the previously mined coal be disposed of.

Several questions were asked of the State in the previous order of December 7, 2022, not the least of them being that at least a further 13 lakh MT of coal has been found in deposit which is over and in excess of the previously mined coal. Such 13 lakh MT of coal together with the several tens of lakhs of illegally mined coal that has been transported out

of the State would show that absolutely nothing has been done by the State in pursuance of subsisting orders of the National Green Tribunal as upheld by the Supreme Court for the complete prohibition of unscientific extraction of coal in the State. It is an admitted position that no scientific extraction of coal has yet started in the State.

Indeed, Justice B.P. Katakey (retired), who has been tasked by this Court for overseeing and ensuring the disposal of the previously mined coal and to take steps to ensure that the recently illegally mined coal is not passed off as previously mined coal, has filed a further interim report on February 6, 2023, copies whereof may not have yet been circulated to the State and the other appearing parties. The report refers to illegal coal mining and transportation and steps taken by Justice Katakey pursuant a newspaper report on or about January 10, 2023 that three mine workers had reportedly died inside a coal mine in Rymbai in the East Jaintia Hills district. The Chief Secretary was requested to submit a report as to the veracity of the newspaper report.

Justice Katakey's latest interim report reveals that an FIR was lodged at Ladrymbai Outpost of the Khliehriat police station and a case was registered under Sections 188/304A/34 of the Penal Code read with Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 following the publication of such report. Three dead bodies

which had been buried on January 10, 2023 were disinterred in terms of the order passed by the Chief Judicial Magistrate, Khliehriat and sent for autopsy to the North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences. The autopsy reports are awaited. Doubtless, the State will furnish such autopsy reports when this matter is taken up next.

The interim report filed by Justice Katakey refers to several cases having been registered pertaining to illegal extraction of coal in the recent months. As to illegal transportation of coal, 31 cases have been registered in December, 2022 and January, 2023. Surprisingly, even the rough estimates of the quantity of seized coal has not been indicated in any case.

For a start, if 31 cases of illegal transportation have come to light, there must have been several multiples more of illegal transportation that may either have been actively overlooked or may not have come to the notice of the appropriate personnel. Secondly, the failure to even indicate the approximate quantity of the seized coal leaves room for manipulation and there is no doubt that the local officials are involved in such manipulation.

In recent petitions filed in this Court, there are complaints of continuous illegal coal mining and illegal transportation thereof in the South Garo Hills and Gasuapara appears to be at the centre of such illegal

activities in that region just as Rymbai appears to be the heart of the illegal coal mining activity in the Khasi-Jaintia hills.

While it may be appreciated that a large number of people may have been left without a livelihood upon the ban on unscientific coal mining falling in place, it was the duty of the State to provide alternative forms of livelihood or even temporary succour to the citizens affected by the prohibition. At any rate, it was the initial duty of the State to check the illegal mining of coal, whatever may have been the reason or purpose therefor. As to the class of persons left with no other form of livelihood continuing to indulge in illegal mining of some form, if the State government had been serious in checking the illegal transportation of the illegally mined coal, without any demand for the illegally extracted coal further supplies would have stopped. Unfortunately, the State government has been singularly lacking in taking any proactive step, whether to arrest the continuation of illegal extraction of coal or check the rampant illegal transportation thereof.

Despite high officials of the State, including the Chief Secretary, being summoned to Court and a contempt notice being issued against the Superintendent of Police, East Jaintia Hills district by the previous order in this matter, the illegal mining and illegal transportation of coal

continue unabated and may even have increased in vigour in this election season.

As observed in a recent order in a matter where the State admitted that it had discovered 57 illegal coke plants operating in a particular area in a district, there could have been no mushrooming or even functioning of any coke plant unless it had access to illegally extracted coal which was illegally transported to such coke plant. It is only upon each discovery of illegal activity being made by this Court that the State responds by assuring the Court that steps would be taken to dismantle the illegal machinery; but the illegal activity mushrooms somewhere else and the State awaits the Court's further direction before undertaking the work that the State itself is obliged to take up. It is a really sorry state of affairs and an affront to the rule of law.

In the current scenario and considering that the State has been afforded nearly a year to take appropriate measures and the measures adopted by the State have fallen woefully short, it is necessary to call in the Central Armed Police Forces to monitor and stop the illegal activities pertaining to coal mining that continues in the State. Dr. Mozika, learned Deputy-Solicitor General of India, who is present in Court, is requested to take notice on behalf of the Union and to inform this Court, when the matter appears a week hence as to the formalities for the immediate

deployment of sufficient units of either the Central Industrial Security Force or the Central Reserve Police Force to completely take over the policing of illegal coal mining activities including the transportation thereof from the State machinery; obviously, at a cost that the State will have to bear for its abject inefficiency.

The large-scale unscientific mining of coal in the State may lead to disastrous consequences. It appears that coal and limestone are found in abundance in this State. Both minerals have been exploited in an unscientific manner. Lack of education and lack of alternative opportunities may have driven many in the State to exploit primary resources as timber and minerals and families may have been left in the lurch upon the unregulated and unscientific industry in either case being arrested.

The kind of coal extraction that the locals here undertake is mainly by rat-hole mining where one or more persons dig a hole with barely enough space to crawl in and chip away the coal from the rockface to physically carry it out. Apart from the immediate risk of the roof of the hole caving in, such activity leaves gaping holes underground, ready to buckle in if there were to be an earthquake. Coupled with this is the presence of limestone underground or on rocksides. Again, unregulated extraction of limestone leaves gaps and holes close to the surface. With

the abundance of rain in this region and limestone being prone to water erosion, there is a tragedy waiting to happen in the aftermath of the unscientific extraction of such coal and limestone, even as the State plays the proverbial fiddle. Without intending to sound apocalyptic or seeking to toll the knell of an imminent doomsday, it takes no rocket science to realise that the recipe is ripe for disaster. The pot is on the boil and it is brewing a calamitous broth. Yet the lure of a quick buck prompts the sentinel to look the other way.

The latest interim report of February 6, 2023 filed by Justice Katakey will be circulated to the appearing parties and copies thereof will be prepared by the officer assigned to this Court and made available to whoever seeks it. Such circulation should be completed in course of this week.

The autopsy reports should be available in Court when the matter appears next along with the indication of the exact quantities of coal seized in respect of each of the 31 cases registered pertaining to illegal transportation that find mention in Justice Katakey's latest report.

The State's report filed on February 6, 2023 does not, for obvious reasons, deal with the matter pertaining to illegal transportation or any checks that may have been placed in such regard. It will be open to the

State to rectify such aspect of the matter by the time the matter is taken up next.

As far as the Superintendent of Police, East Jaintia Hills, is concerned, he shall show cause why punishment for contempt, including detention in jail, should not be suffered by him for the flagrant violation of orders of this Court to check the illegal menace of unscientific coal mining rampant all over the East Jaintia Hills and the illegal transportation thereof. An affidavit dealing with the revelations in the latest report of Justice Katakey should be in Court when the matter appears next exactly a week hence.

List on February 14, 2023.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
07.02.2023
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