

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No. 2/2022

Date of order: 12.04.2023

In Re: (Suo motu): Illegal mining
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 State : Mr. K. Khan, AAG with
Mr. S. Sengupta, Addl.Sr.GA
Ms. R. Colney, GA
Mr. A.H. Kharwanlang, GA

For the Union : Dr. N. Mozika, DSGI with
Ms. A. Pradhan, Adv

For Coal India Limited : Mr. M.Z. Ahmed, Sr.Adv with
Mr. A.M. Dutta, Adv

Pursuant to the order dated March 20, 2023, this matter was directed to appear today for Dr. Mozika, learned DSGI, to indicate how soon the Central Industrial Security Force could deploy 10 companies for the purpose of checking the illegal transportation of coal in the State.

Dr. Mozika reports that the CISF is unwilling to take up the assignment, primarily because the nature of the work does not fall within the usual activities undertaken by such police force. It needs to be recorded that the Court did not seek out the CISF in particular, but the Court had initially sought to explore the possibility of deploying the

Central Reserve Police Force with the mandate to check the illegal transportation of coal in the State. It was at such stage that it was suggested on behalf of the Union since the CRPF works under the instructions of the local police and the real intention of this Court was for the local police not to be associated in the process since it had been ineffective in such regard, the CISF may be the appropriate force.

In any event, no direction had been issued for deployment. The previous orders merely provided for the CISF to indicate its readiness.

Despite the apparent unwillingness on the part of the CISF, once a direction is issued by the Court, the relevant force would be bound thereby, subject to its right to have the order tested in the appropriate forum. However, no such direction is issued immediately and the Union Ministry of Home, through the Union Home Secretary, is directed to ensure the deployment of 10 companies of the appropriate Central Armed Police Force to be commanded independently or jointly by the officers from the local police that may be selected by the Court, strictly for the purpose of keeping a vigil on the roads and arresting the illegal transportation of illegally mined coal in the State.

The Union's response through the relevant Secretary should be available when the matter appears next a fortnight hence.

It must be appreciated that this is an unusual situation which has arisen. Despite orders of the Supreme Court, which have been in place since or about 2016, rampant illegal mining of coal has continued in the State and such illegally mined coal has been allowed to be freely transported, even to the extent of being regularly exported to Bangladesh by possible false declarations that the coal originated elsewhere.

Since the local police force, under the State government, has been completely ineffective or unwilling to control the malaise or implement the orders of the Supreme Court, which they are dutybound to do, it is felt appropriate that an external police force, may be deployed for checking the illegal transportation of illegally mined coal in the State.

Meanwhile, Justice Katakey has filed a 12th interim report. Most of such report deals with the manner in which the previously mined coal is to be auctioned. Previous orders have recorded a timeline for the completion of the process. It is imperative that such timeline is adhered to since freshly mined coal is being sought to be passed off as previously illegally mined coal in the State.

Let copies of the 12th interim report be circulated by the officer of this Court to the State, the Union, Coal India Limited and any other parties interested to obtain copies thereof.

Let a further ad hoc remuneration of Rs.3 lakh be paid to Justice Katakey.

It is recorded that the State has relied on a notification of March 24, 2022 by which the Meghalaya Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2022 have been brought into effect. A further notification of July 26, 2022 has also been placed. By such notification, in exercise of the powers conferred under Section 30B of the Mines and Minerals (Development and Regulation) Act, 1957, the State government has constituted special courts in districts for the purpose of speedy trial of offences for contravention of the provisions of sub-section(1) or sub-section (1A) of Section 4 of the Act of 1957. The submission on behalf of the State is that upon the issuance of such notifications, the State has done all within its power to check or stop the illegal mining of coal.

However, notwithstanding this Court recording the State's submission in a connected matter yesterday, at the insistence of learned Additional Advocate-General, that there was now a system in place which has completely stopped the illegal transportation of coal, an accident has been reported in today's newspapers of a truck illegally transporting illegally mined coal in Ri-Bhoi district. There is no doubt that both illegal mining and illegal transportation of coal continues and,

if the rule of law is to be asserted in this State, it cannot be done with the present machinery available in the State.

Let the matter appear a fortnight hence.

List on April 27, 2023.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
12.04.2023
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