

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No. 2/2022

Date of order: 19.12.2023

In Re: (Suo motu): Illegal mining
of coal in the State of Meghalaya

Coram:

Hon'ble Mr. H.S. Thangkhiew, Chief Justice (Acting)
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance in PIL No.2 of 2022

For the Petitioner : -

For the State : Mr. A. Kumar, Advocate General with
Ms. R. Colney, GA
Mr. E.R. Chyne, GA

For the Union : Dr. N. Mozika, DSGI with
Ms. S. Rumthao, Adv

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

This matter has come up today for consideration of the 19th interim report filed by the Single Member Committee of Justice B.P. Katakey (retired).

On 11.12.2023 after the matter had been taken up, the 19th interim report was received. The same was circulated thereafter on the same day itself to all the parties and it was understood that comments and replies of the same were to be furnished on the next date. However, the State respondents are yet to respond to the same.

Contra to the submission made by the respondents on 11.12.2023, the 19th interim report of Justice Katakey has however spoken otherwise. The report it may be added is specific to the coal dumped found behind Don Bosco College Byndihati. Queries were raised by the Single Member Committee and the stand of the Deputy Commissioner, East Jaintia Hills District in respect of the coal dumps found behind and by the side of the Bon Bosco, Byndihati were noted, apart from there being a physical sitting on 08.12.2023 with regard to the matter. The report itself having great significance, as it reflects the manner in which the district authorities, especially law enforcement have conducted themselves, is extremely relevant as such, extract of some observations made by the Single Member Committee at paragraphs 3.1 and 3.8 are reproduced herein below:-

“3.1. Availability of coal dumps behind Don Bosco College, Byndihati is not in dispute. The Deputy Commissioner, East Jaintia Hills District has taken the stand that the coal found behind the college being part of already inventoried coal, it is not illegal. The Deputy Commissioner has also taken the stand that the possibility of mixing of some fresh coal with the old stock cannot be ruled out. During the interactive meeting held on 08.12.2023, the Deputy Commissioner, East Jaintia Hills District has, however stated that there was no transportation of coal stock to the designated depot pursuant to the transit passes issued for transportation of the inventoried coal, though in the written report dated 24/11/2023 he had taken stand that the presence of fresh tyre marks is due to the transportation of such coal to the designated depot pursuant to the transit passes issued. The presence of fresh tyre marks of heavy vehicle, which is an admitted position of fact, coupled with the stand of the Deputy Commissioner about the possibility of transportation of fresh coal

to that area, established fresh transportation of illegally mined coal to and from the coal dumps found behind Don Bosco College, Byndihati.

3.8 The contention of the Deputy Commissioner that the coal found behind Don Bosco College is the said subsequently inventoried coal in the year 2018, is not acceptable for the following reasons :

- (i) The coordinates Latitude: 25.318142 and Longitude: 92.269927 mentioned by the Addl. Deputy Commissioner, East Jaintia Hills District in the FIR dated 07/11/2023, which was registered as Khliehriat PS Case No. 87(11)23, do not tally with the coordinates mentioned in the inventory prepared by the then Deputy Commissioner, East Jaintia Hills District in the year 2018, which is N 25.33249, E 92.373775.
- (ii) Moreover, the I/O of Khliehriat PS Case No. 87 (11)23 by his communication dated 21/11/2023 has also informed the Deputy Commissioner, East Jaintia Hills District that during investigation it is found that the coal dumps as per the coordinates mentioned in the said FIR are not matching during the physical inspection of the coal dumps found behind Don Bosco College and the correct coordinates in respect of the said coal dumps, during investigation, are found as Latitude: 25.3326445 and Longitude: 92.3734301.
- (iii) The coordinates of the said coal dumps found by the I/O also does not tally with the coordinates N 25.33249, E 92.373775 mentioned by the Deputy Commissioner in his communication dated 21/11/2023 to the I/O of Khliehriat PS Case No. 87(11)23.
- (iv) The coordinate, as recorded in the subsequently prepared inventory list in the year 2018 and the coordinate found by the I/O during investigation in 2023, are different and hence the coal now found behind Don Bosco College cannot be the coal which was subsequently inventoried in the year 2018 and stated to be of Sri Mul Sympli.
- (v) The coal found behind Don Bosco College, during the field visit on 07/11/2023, being bright and shining, the said coal also cannot be the coal subsequently inventoried in the year 2018.”

The contention of the Deputy Commissioner that the coal found behind Don Bosco College was not accepted by the Single Member Committee, which has based its findings on fact. The same is with the stand taken by the district authorities, on whether there was any transportation of coal stock to the designated depot pursuant to the transit passes that had been issued for transportation of inventorised coal.

Another alarming feature which has not been dealt with in the report but however touched upon is with regard to the presence of other coal dumps found in Byndihati area by the side of national highway.

Though it has been submitted, and materials produced to show that investigation is underway and a case registered on 08.11.2023, in respect of the coal behind Don Bosco College, the manner in which these incidents and issues keep cropping up have cast severe doubts on the capabilities and keenness of the district authorities, especially the police to stop such incidents.

This Court is of the view that though the learned Advocate General has prayed for time to file a detailed reply to the 19th interim report, some directions are necessary to be issued at this stage to stem the illegal activities that are continuing unabated. It is also to be noted that by the previous orders of this Court, the district authorities and the other

authorities concerned, are liable for contempt which if needed will be issued from this Court.

At this stage, however, while allowing the State to file a reply to the 19th interim report and presently not initiating contempt proceedings, the Deputy Commissioner and the Superintendent of Police who are on the ground level in the district are expected to ensure that the rule of law is maintained and the directions of the Court are honoured. The Superintendent of Police as has been informed has been posted in East Jaintia Hills since 2021, and as such should have been alive and well acquainted with what is going on in the district. The 19th interim report reflects that the Superintendent of Police is perhaps ineffective in stemming the illegal activities. On the failure of the Superintendent of Police as can be made out from the 19th interim report, it is therefore directed that he should be immediately transferred from the present post and another competent officer be placed in-charge of the district immediately. The Home Department and the Director General of Police to take immediate action in this regard.

As regards the Deputy Commissioner he is cautioned and expected that he takes all steps to ensure that the orders of this Court are honoured and that order is maintained.

Let a further ad hoc amount of Rs.3 lakh be paid to Justice Katakey, in addition to the secretarial allowances and expenses actually incurred.

List this matter for further consideration and reply on 09.02.2024.

(W. Diengdoh)
Judge

(H.S. Thangkhiew)
Chief Justice (Acting)

Meghalaya
19.12.2023
"Lam DR-PS"

