

Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No. 2 of 2022

Date of order: 14.03.2024

In Re Suo Motu Illegal Mining of coal in the State of Meghalaya vs State of Meghalaya

Coram:

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

Appearance:

For the Petitioner :

For the State Respondent (s) : Mr A. Kumar, AG with
Mr K. Khan, AAG
Mr A.H. Kharwanlang, Addl.Sr.GA
Ms R. Colney, GA

For the Union of India : Dr. N. Mozika DSG with
Ms. A. Pradhan, Adv.

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

Pursuant to order dated 09.02.2024, the State has filed its status report dated 13.03.2024 regarding the updated status of disposal of inventoried coal and the action taken by the State in reply to the 20th interim report of Justice B.P. Katakey (retired).

2. The order dated 09.02.2024 has been passed for the purpose of shifting the remaining mined-coal in various Districts from the

pitheads to the designated depots of Coal India Limited and also for the Deputy Commissioner and other authorities to issue necessary transit passes so as to enable the coal owners to participate in the transportation of the mined-coal. In the order, it has also been recorded that the coal owners did not show any interest in getting the transit passes in spite of public notices having been issued. According to learned AG, the Apex Court in a decision reported at *(2019) 8 SCC 177* in the case of *State of Meghalaya v. All DIMSA Student Union* has held in paragraph 195.20 that the coal extracted or mined will belong to the person concerned and the propriety right in the mineral shall not be lost. He also drew the attention of this Court to paragraph Nos. 195.23 to 195.25 and stated that the State of Meghalaya and Coal India Limited or both shall ensure that transportation of minerals and the charges to be borne by either of them or by both and the coal which have been seized by the State in illegal transportation and illegal mining for which different cases have been registered by the State has not been dealt with by the Apex Court in the decision. It is further made clear that the State of Meghalaya shall be entitled to royalty and payment towards the Meghalaya Environment Protection and Restoration Fund and taxes to pay back the balance to the owner.

3. When publication has been made, it is stated by learned AG that the owners have approached the State and submitted that the price of the coal has come down and they will not be in a position to shift their mineral as there will be a loss to them. Justice B.P. Katakey (Retired) has submitted the 20th interim report and made certain recommendations including use of drone technology and the like. It has been pointed out that some of the coke oven plants have already been closed. Since the Apex Court has already held that mined-coal belong to the owners and they have got the propriety right, it does not mean that the coal shall be allowed to lie in the same place and by allowing that, there is a possibility of further illegal mining by keeping those mined-coal in the same place.

4. Hence, we are the view that the entire mined-coal which is available in the land has got to be shifted or transmitted to a place where it shall be kept in storage for the transportation. The storage charges can be recovered from the coal owners for keeping the coal in a particular place and necessary charges can also be levied to be collected from the owners. Once the coal is transported, by usage of drone technology as suggested by Justice Katakey (retired), the entire area can be in surveillance, if any coal is going to appear on the land surface it can be

taken as an illegal mined-coal in terms of Section 21 of the MMDR Act, 1957 and necessary action can be taken.

5. Learned AG requested for 45 days' time for shifting all the minerals that is lying on the land surface.

6. In view of the submissions, the time is granted for shifting the minerals and it is open to the State to use the latest technology like drone for the purpose of proper surveillance in order to avoid further illegal mining.

7. Justice Katakey (retired) has submitted another interim report dated 12.03.2024, which is the 21st interim report. Registry is directed to furnish a copy of the said report to all parties concerned and they are expected to raise their objections/statements based on the 21st interim report.

8. Let a further remuneration of Rs. 3 lakh to be paid to Justice Katakey (retired), including the expenses incurred by him.

Post the matter on 01.05.2024 for reply.

(W. Diengdoh)
Judge

(H.S. Thangkhiew)
Judge

(S. Vaidyanathan)
Chief Justice

Meghalaya
14.03.2024
"Sylvana PS"