

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No.8/2022

Date of Order: 17.05.2023

Champer M. Sangma Vs. State of Meghalaya & ors

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner : Mr. S.Deb, Adv

For the Respondents : Mr. K. Khan, AAG with
Mr. Sengupta, Addl.Sr.GA
Ms. R. Colney, GA
Mr. D. Nath, Sr.GA (for State of Assam)
Dr. N. Mozika, DSGI with
Ms. A. Pradhan, Adv
Mr. P. Bora, Sr.Adv for R/14

- | | | |
|-----|--|--------|
| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

Pursuant to the previous order, the State of Assam has filed a letter dated May 16, 2023 under cover whereof the Superintendent of Police has forwarded a report pertaining to the possibility and feasibility of the respondent No.14 having lifted huge quantities of coal during 2021 and thereabouts from the open market in Beltola or its surrounding areas.

2. The relevant report, which is by way of a letter issued by the Inspector of Police, Bureau of Investigation (EO), Assam to the

Superintendent of Police of the same bureau, observes, inter alia, as follows:

“During field verification several coal depot/dealer have been visited and on being enquired about possibility/feasibility of dealing of huge quantity of coal covering the period from 2021 it has been revealed ... that since 2014 onward, the business of coal has drastically come down after strict guidelines issued by NGT in respect of mining/extraction of coal from Meghalaya. Hence, possibility of dealing of huge quantity of coal was not feasible on the part of any of the coal dealer located at Beltola area. In case of demand of large quantity of coal by any customer which happens in very rare occasions, the coal dealer have to procure it from Nagaland.”

3. The conclusion in the report is that it is unlikely that the respondent No.14 would have obtained the huge quantity of coal that it sought to export from the open market in or around Beltola. Copies of such field report and letter have been circulated both to the State of Meghalaya and to the respondent No.14, along with the petitioner.

4. In the light of such field report and conclusion, both the State and the 14th respondent will respond thereto when the matter appears next a fortnight hence.

5. Several papers have been brought on behalf of the Customs authorities pursuant to the previous direction. Such papers include a specimen e-way bill. The sample bill is dated December 16, 2021 and was produced by Jaimaa Coal Private Limited at the Gasuapara Land Customs Station for the purpose of exporting 12 MT of washed blend coal. The

Customs authorities point out that as far as they are concerned, they are only required to check the e-way bill and original e-way bill here carried a signature and rubber-stamp of the Government of Meghalaya and its Directorate of Mineral Resources at two places, one at Dainadubi when the relevant truck may have entered the State and the other at Gasuapara as it cross just before it reached the Gasuapara LCS.

6. The Customs authorities have also produced a copy of a letter dated March 9, 2022 issued by the Commissioner of Customs (Preventive), North-Eastern Region to the Chief Secretary of the State. At paragraph 3 of the letter, it is indicated that the Customs officer at LCS, through which coal is exported are checking the relevant documents to ensure that illegally mined Meghalaya coal is not cleared for export. It also refers to coal in case originating from outside the State of Meghalaya, Mining and Geology Department of the Government of Meghalaya issue export permits or orders and the period of valid of such permits or orders. The letter refers to the provisions of the Mines and Minerals (Development and Regulation) Act, 1956 and the rules framed thereunder and the widespread reporting of illegal coal mining and illegal transportation of illegally mined coal in the State.

7. In short, upon the LCS authorities receiving complaints from various quarters, they put the State of Meghalaya on notice that the State

should ensure proper verification before permits or orders were issued for export of coal.

8. A further letter of May 4, 2022 issued by the Commissioner of Customs (Preventive) has also been brought. There is a third letter seeking coordination between Customs officials and State Government dated November 22, 2022. A copy of a previous letter of November 11, 2019 has also been produced where the Union Minister of Finance and Corporate Affairs had written to the Chief Minister of the State for mandatory checking of transport challans since the Customs authorities do not have the mandate to ascertain the origin of coal at the LCS.

9. Despite the present and several related matters in this Court pertaining to rampant illegal coal mining and despite the orders of the National Green Tribunal and the Supreme Court in such regard from or about 2014 or 2016 and despite several orders of this Court requiring the illegal transportation of the illegally mined coal in the State to be checked and altogether stopped, the State did not find it convenient to refer to any of the aforesaid letters, particularly the letter issued by the Union Minister to the Chief Minister of the State. Considering the discovery of rampant illegal coal mining, the mushrooming of illegal coke plants without any permission or licence and the continuing transportation of coal across length and breadth of the State, including in trucks bearing no registration

plates, the role of the State Government in utterly disobeying orders of the NGT and the Supreme Court and in being complicit with the illegal mining mafia and the transport mafia, becomes rather obvious.

10. Since these documents have come to light just now, it is necessary to call upon both the State and the respondent No.14 to respond to the same.

11. Dr. Mozika is requested to forward copies of the aforesaid documents, including the e-way bill and the letters under cover of a letter issued by his junior to Advocate representing the State and Advocate representing the respondent No.14. This exercise should be completed in course of the day.

12. It will also be open to Advocate for the petitioner to obtain such documents from Dr. Mozika.

13. It is expected that appropriate explanations in such regard would emanate, dealing with the observations pursuant to the field study conducted by the relevant police authority in Assam and the documents relied upon by the Customs authorities, particularly by the State of Meghalaya and the respondent No.14. Copies of the relevant affidavits should be forwarded to the Customs authorities, the petitioner and the State of Assam at least one day before the matter appears next.

14. List on June 1, 2023.

(W. Diengdoh)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
17.05.2023
"Lam DR-PS

