

Serial Nos.1-4
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No. 2/2022 with
PIL No.8/2022
PIL No.9/2022
PIL No.14/2022

Date of order: 10.08.2023

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

Champer M. Sangma	vs.	State of Meghalaya & ors
Shailendra Kumar Sharma	vs.	State of Meghalaya & ors
Monu Kumar	vs.	State of Meghalaya & ors

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice H. S. Thangkhiew, Judge
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 (VC) with
Mr. N.D. Chullai, AAG
Ms. R. Colney, GA

For the Union : Dr. N. Mozika, DSGI with
Ms. K. Gurung, Adv

For Coal India Limited : None

Appearance in PIL No.8 of 2022

For the Petitioner : Mr. S. Dey, Adv with
Mr. S. Deb, Adv

For the Respondents : Mr. A. Kumar, Advocate-General (VC) with
Mr. N.D. Chullai, AAG
Ms. R. Colney, GA

Dr. N. Mozika, DSGI with
Ms. K. Gurung, Adv
Mr. P. Bora, Sr.Adv (VC) for R/14
Mr. D. Nath, GA (VC) [For State of Assam]

Appearance in PIL No.9 of 2022

For the Petitioner : Mr. A Goyal, Adv (VC)

For the Respondents : Mr. A. Kumar, Advocate-General (VC) with
Mr. N.D. Chullai, AAG
Ms. R. Colney, GA
Dr. N. Mozika, DSG with
Ms. K. Gurung, Adv

Appearance in PIL No.14 of 2022

For the Petitioner : Mr. M.A.I. Hussain, Adv (VC)

For the Respondents : Mr. A. Kumar, Advocate-General (VC) with
Mr. N.D. Chullai, AAG
Ms. R. Colney, GA

The several matters are taken up together pertaining to the illegal mining of coal, the operation of illegal coke plants, the transportation of illegally-mined coal, the export of the illegally- mined coal in the State by fabricating documents to claim the coal to have been extracted in some other States and the disposal of the previously mined coal pursuant to the earlier orders of the National Green Tribunal and the Supreme Court.

2. At the outset, two developments need to be recorded. By an order dated July 10, 2023 in SLP (Civil) Diary No(s). 24481/2023, the Supreme Court has stayed the operation of the orders impugned in the relevant petitions passed by this Court on March 13, 2023, March 20, 2023 and April 12, 2023. The order was passed on the Union's plea regarding a proposal by this Court to deploy one of the Central Armed Police Forces for the purpose of ensuring compliance with previous orders of the Supreme Court prohibiting the mining of coal in the State otherwise than in accordance with law. It was perceived at that time by this Court that it was necessary to deploy the Central Reserve Police Force to check the illegal transportation of the illegally-mined coal since the State government, despite orders having been passed for over a year by this Court, had not taken any meaningful steps in such regard.

3. However, it must be pointed out that no order was, in fact, passed for deployment of CRPF; only inquiries were made for the CRPF to come and inform the Court as to the feasibility of deploying its personnel. No order was passed for deployment, nor was any direction in such regard issued.

4. The second recent development pertains to orders passed by the Deputy Commissioner of East Jaintia Hills for the demolition of illegal

coke plants that have been operating without any consent to establish or consent to operate in terms of the relevant statute. On an application filed by one of the illegal coke plants, this Court refused to interfere with the order of demolition passed by the relevant Deputy Commissioner on the ground that the use of illegally-mined coal in the State was rampant and unless punitive measures were taken, such illegal activity, in direct contravention of the orders of Supreme Court, would continue unabated.

5. Indeed, the provisions of the relevant statute were interpreted to imply that an entity first needed a consent to establish a plant and, upon establishing the plant pursuant to the consent and the conditions set therefor, it had to further obtain a consent to operate, whereupon certain other conditions could be imposed and the entity had to comply with such additional conditions. The scheme of the Act was read by this Court to imply that without the conditions being indicated by the appropriate authority in the consent to establish, an entity could not willy-nilly establish a plant of its own design upon merely making an application for consent to establish. However, such question is pending consideration before the Supreme Court in the appropriate matter. Though the recent order of the Supreme Court dated August 7, 2023

staying the demolition of illegal coke plants in terms of the order passed by the Deputy Commissioner, West Khasi Hills District, is in place, it must also be noticed that the relevant Deputy Commissioner has been given the liberty to seal the coke plants' premises to ensure that such plants remain non-operational.

6. The petitioners in these present matters submit that the kingpins running the illegal coal mining industry roam around freely while some foot soldiers may have been proceeded against the State, for obvious reasons. Learned Advocate-General, however, labours to suggest that the real persons have been hunted down or are being proceeded against and the State has taken serious steps in such regard in conjunction with the Assam Police since several of the kingpins may be operating from out of State.

7. Some of the petitioners suggest that the illegal transportation has not been checked at all and in an unconnected matter pertaining to overladen goods vehicles plying on the State and national highways in Meghalaya, it has been discovered that there are far too few weighbridges and almost no weigh-pads to effectively monitor the loads carried by goods vehicles. Though such other matter pertains to the condition of the roads as a result of overladen goods vehicles plying

freely without any checks, the overloading aspect is intricately connected with the illegal transportation of coal. It is hoped that in terms of the directions issued in the relevant matter, the 23 weighbridges are functional in the State and weigh-pads have been installed in other places to conduct surprise checks.

8. There is a suggestion by the petitioner in one of these matters that apart from the flourishing the illegal coke plants, several other industries are operating which use the illegally-mined coal, to the knowledge of the State, but no action has been taken against the same. If such is the case, it is hoped that the State is mindful of the same and takes appropriate action in such regard.

9. As to the disposal of the previously mined coal, learned Advocate-General assures the Court that the schedule which had been furnished to the Court is being adhered to. The State also submits that several of the illegal coke plants in West Jaintia Hills had already been demolished before the Supreme Court's order was passed on August 7, 2023. The State says that 39 illegal coke plants have been demolished in in the West Khasi Hills and the five in the East Jaintia Hills.

10. A sixteenth interim report has been filed by Justice B.P. Katakey (retired) who has been appointed by this Court to oversee the disposal

of the previously illegally-mined coal and to monitor the steps taken by the State to ensure compliance with the orders passed by the NGT and the Supreme Court prohibiting unscientific mining of coal in the State. Copies of such report may be obtained by any of the parties hereto from the officer of this Court. There are several observations, some of them critical of the State and the action taken or the lack of it. The State, in particular, will respond to such observations by way of an affidavit to be filed by the Secretary in the Department of Mining. There is also a report dated August 7, 2023 filed by the State. Copies of such report be circulated to all the other parties.

11. In the matter pertaining to the illegal transportation of coal, the petitioner says that notwithstanding the State pretending to move against the kingpins in the illegal coal industry, the government officials who have been actually hand in gloves with the masterminds have not been proceeded against. There are documents on record which, prima facie, reveal the nexus between a section of the State government officials and those running the illegal coal industry and the transportation of the illegally-mined coal. Unless the State addresses the issue within its home, the larger malaise cannot be tackled.

12. The matter will appear 10 days hence to enable the State and the parties to respond to Justice Katakey's latest report.

13. 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.

14. List on August 29, 2023.

(W. Diengdoh)
Judge

(H. S. Thangkhiew)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
10.08.2023
"*Lam* DR-PS"

