

**BEFORE THE NATIONAL GREEN TRIBUNAL,
Circuit Bench at High Court of Meghalaya,
Shillong**

Original Application No. 110(T_{HC}) of 2012

**Threat to Life Arising Out of Coal Mining in South Garo Hills District
Vs.
State of Meghalaya &Ors.**

**CORAM : HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Present: **Applicant:** **None Present**
Respondent No. 1: **Mr. Ranjan Mukherjee, Advocate and Ms. Aprajita Mukherjee, Advocate along with Shri Y. Tsering, IAS, Pri. Secy. Mining & Geology Dept. Sh. R.P. Marak, Director of Mineral Resources, Sh. C.K. Marak, Dy. Secy. Mining & Geology**
Respondent No. 1A: **Dr. S.C. Katiyar, Joint Director, MoEF, N.E. Regional Office**
Respondent No. 2: **Mr. Dinesh Ku. Sahu, Director of Mines Safety**
Respondent No. 3: **None Present**
Respondent No. 4&5: **Mr. Saurabh Sharma, Adv.**

Date and Remarks	Orders of the Tribunal
Item No. 1 January 24, 2014	<p>This case was originally initiated by the Hon'ble High Court of Meghalaya based on a newspaper report published in the "Telegraph" dated 11.7.2012 and 12.7.2012. In the Public Interest Litigation (PIL), Ms. A. Paul was appointed the Amicus Curiae to assist the Court. Subsequently, the case was transferred to the National Green Tribunal. The Amicus Curiae so appointed did not continue to appear before the Tribunal. No other Amicus Curiae was also appointed. We find that assistance of Amicus Curiae is necessary for resolving the dispute involved in this case.</p> <p>The Registry to inform Ms. A. Paul, learned Counsel who was originally appointed as the Amicus Curiae by the Hon'ble High Court of Meghalaya requesting her to appear on the next date of hearing. If she is not interested to continue as Amicus Curiae, some other Amicus Curiae is to be appointed.</p> <p>There is no representation on behalf of the Respondent No. 3. Others are represented.</p> <p>The learned Counsel appearing for the Respondent No. 1 submitted that pursuant to the direction of the Tribunal dated 8.7.2013, a detailed statement has been filed and the copy of the Meghalaya Mines and Minerals Policy 2012, which came into force on 5.11.2012 is also placed on record. So also details of the coal mines and names of the</p>

measures are also furnished. It was also pointed out that as per order dated 20.5.2013, the District Magistrate passed an order under section 133 of the Code of Criminal Procedure directing that coal mines in the whole of South Garo Hills District, should be stopped with immediate effect, until further orders and the order is in force even today. It was also pointed out that serious action is being taken in case there is any violation of the order. Learned Counsel also pointed out that the final report from the National Disaster Response Force (NDRF) is still awaited and as per their preliminary report submitted, no person living or dead was found in the mine involved in the case.

By order dated 12.9.2013, Respondent No. 5, the Mine Contractor, was directed "to produce on record as to what was its per day production which is stated to be 15 tones or more as well as the complete details of persons employed during various months in the year 2012 which is stated to be 35".

Learned Counsel appearing for the Respondent No. 5 submitted that in compliance of the direction, an affidavit dated 20th / 23rd October, 2013 was filed. We found from the affidavit that it is not in compliance of the order dated 12.09.2013. Though, in paragraph 8, it was stated that "there was no written records to show the details of the people who were working in the mine in the year 2012" it is further stated that "names and details of the residence of those people are available with the Respondent No. 5 which was showed to various authorities when they inspected the site. Hence it is clear that there are records then available showing the details of the persons employed. The records are not produced and an incorrect affidavit is filed. Though, the order directed Respondent No. 5 to furnish the details of the persons employed during the months in the year 2012, Respondent No. 5 did not furnish the same. In paragraph 4 of the affidavit, it is stated "at that time of the incident, there were around 30 people working in the mine all are males who are from 25 to 45 years old." In spite of this admission, Respondent No. 5 has not furnished the details. In such circumstance, Respondent No. 5 is directed to comply with the order dated 12.9.2013 by the next date of hearing and

any violation would be seriously viewed warranting stringent action.

On going through the records produced by Respondent No. 1, we find that the investigation revealed the names of at least six labourers, who were reported to be working at the time of the fatal incident, from the Dubari district, Assam. Their addresses are also seen in the records. Their names and addresses are given below:

1. Md. Sahab uddir – 28 years s/o Md. Rupchara Shaikh of Chalashagaya P.O. Bonkalia, Shersho, P.S. Fakirgang, Distt. Dhubri, Assam.
2. Md. Jalal Shaikh – 22 years s/o Md. Roggak of Chalashagaya P.O. Bonkalia, Shersho, P.S. Fakirgang, Distt. Dhubri, Assam.
3. Shri Helal Uddir – 19 years s/o Shri Roggak Ali of Chalashagaya P.O. Bonkalia, Shersho, P.S. Fakirgang, Distt. Dhubri, Assam.
4. Md. Jalal Shaikh – 23 years s/o Md. Rabin Uddir of Chalashagaya P.O. Bonkalia, Shersho, P.S. Fakirgang, Distt. Dhubri, Assam.
5. Md. Haider Ali – 25 years s/o Md. Rabin Uddir of Chalashagaya P.O. Bonkalia, Shersho, P.S. Fakirgang, Distt. Dhubri, Assam.
6. Md. Johinul Alam s/o Md. Kuddus Ali of Chalashagaya P.O. Bonkalia, Shersho, P.S. Fakirgang, Distt. Dhubri, Assam.

The learned Counsel appearing for Respondent No. 1 submitted that they could not be traced out the labourers and inspite of request, details are not received from the Government of Assam. We find that when details of those labourers are available, if the details are published in the newspaper having wide circulation in their area, if the said labourers are alive, they themselves or if they are not alive, their dependents may appear. In such circumstances, we direct the Respondent No. 1 to publish in Assamees and Bengali language two newspapers of having wide circulation in the area informing that the said six labourers are reported to be working in the mine involved in this case and are feared to be inside the mine at the time of mishap and requesting them to appear in person if they are alive or their

dependents to appear in case they are not alive, before the National Green Tribunal on 04.04.2014 at 10.00 A.M.

We also find from the records that though assistance of the National Disaster Response Force was obtained and they had conducted a search, and preliminary report was submitted, the final report is yet to be submitted. Records show that the search was not completed due to the dangerous conditions of the mine and it was stopped to be continued later. We are shocked to note that when it is suspected that 15 human beings were inside the mine at that time of mishap and suspected to be dead, there was no serious action to find out whether there was any labour inside the mine at the time of mishap. The fate of human beings cannot be that of a cattle. Neither the State nor the NDRF could wash their hands. The truth must come out. In such circumstances, we direct the Assistant Commandant, Officer In-charge of NDRF to complete the search and submit the final report disclosing whether labourers were inside the mine at the fateful time. If the labourers were there and they could not escape, their Skelton should be there in the mine. If should be taken out. The final report must be made available by the next date of hearing.

Learned Counsel appearing for the Respondent No. 1 also submitted that in answer to the direction dated 12.12.2013, an affidavit is being filed today by Shri R.P. Mark, Director of Mineral Resources to the effect that due to want of particulars about the alleged incident, it is not possible to furnish the details and if particulars are made available, necessary documents will be furnished.

Learned Counsel appearing for the Respondent No. 1 submitted that the investigation is in progress and as the original crime records are submitted, they may be returned to continue with the investigation. We find force in the submission. As the investigation is in progress, return the crime records produced by the learned Counsel appearing for Respondent No. 1, after retaining the photocopies of all the pages getting acknowledgment.

Post on 4th April, 2014, for further hearing.

.....,JM
(M.S. Nambiar)

.....,EM
(Ranjan Chatterjee)



