

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH,  
KOLKATA**

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**ORIGINAL APPLICATION No. 55/2021/EZ**

**IN THE MATTER OF:**

- 1. Farkul Islam Barbhuiya,  
S/o Siraj Uddin Barbhuiya,  
Nazatpur, PO.O.Lattimara,  
District-Cachar, Katigora,  
Assam – 788805,**
- 2. Ruhela Begom,  
W/o-Abdul Sukkar,  
Pingorgool (Bortol),  
P.O. Adharkuna,  
P.S.-Badarpura, District-Karimganj,  
Assam – 788701,**

**....Applicant(s)**

**Versus**

- 1. The State of Meghalaya,  
Through Chief Secretary,  
Main Secretariat, East Khasi Hills District,  
Shillong – 1, Meghalaya,**
- 2. The State of Meghalaya,  
Through Principal Chief Conservator,  
Meghalaya Forest and Environment Department,  
Meghalaya Forest Headquarter, Sylvan House,  
Lower Lachumiere, Shilong – 793001,**
- 3. Ministry of Environment, Forests and Climate Change,  
Through Additional Secretary,  
Indira Paryavaran Bhawan, Jorbagh Road,  
New Delhi – 110003,**

**....Respondent(s)**

**COUNSEL FOR APPLICANT:**

**Mr. Imsori Amri, Advocate**

**COUNSEL FOR RESPONDENTS :**

**Mr. Shaurya Sahay, Advocate for R-1 & 2,  
Mr. Gora Chand Roy Choudhury, Advocate for R-3**

**JUDGMENT**

**PRESENT:**

**HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)**

**HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)**

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**Reserved On:- 29<sup>th</sup> March, 2022  
Pronounce On:- 11<sup>th</sup> April, 2022**

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1. Whether the Judgment is allowed to be published on the net? **Yes**
  2. Whether the Judgment is allowed to be published in the NGT Reporter? **Yes**
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**JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)**

Heard the learned Counsel for the parties and perused the documents on record.

2. This Original Application has been filed by the Applicants with the allegation that rat hole mining is being carried on in the State of Meghalaya by one Sordar Shri Nizam Ali and some others. An accident had also occurred resulting in the death of some miners. The prayer in the Original Application is for a direction to the Oversight Committee of 12 members constituted by the National Green Tribunal, Principal Bench, to take action with regard to illegal rat hole mining in the State of Meghalaya and to order the closure of the said illegal mining. The Applicants have also made

references to certain observations of the Hon'ble Principal Bench in Original Application No. 110(THC) of 2012 connected with Original Application No. 73 of 2014, Original Application No. 13 of 2014, Original Application No. 186 of 2014 and Original Application No. 287 of 2017 and it is pointed out by him that in that bunch of cases, the Oversight Committee of 12 members constituted by the Principal Bench had framed certain issues for consideration. However, it had not been indicated in the present Original Application whether the aforesaid Original Applications are pending or disposed of and if disposed of, with what directions. However, upon a query raised by us in this regard, a supplementary affidavit has been filed by the applicant stating that the Original Application No.73/2014, Original Application No.13/2014, Original Application No.186/2014, Original Application No.287/2017 and Original Application No.1054/2018 have been disposed of in the light of the directions given in Original Application No. 110(THC) of 2012.

3. We may note here that the Original Application No. 110(THC) of 2012 (Threat to life arising out of coal mining in South Garo Hills District Vs. State of Meghalay) was disposed of by the Hon'ble Principal Bench by an order dated 15.03.2021 by constituting a 12 Member Committee and the Committee was directed to ensure that no illegal/unauthorized mining takes place, keeping combat plan and mining mishap management plan ready to avoid eventualities. The Committee was also tasked to take measures for rejuvenating

contaminated streams and rivers. Para 23 of the order dated 15.03.2021 reads as under:-

*'23. Accordingly, we dispose of this Original Application with a direction that ownership of the task of compliance of the judgment of the Hon'ble Supreme Court with regard to preventing unscientific and unregulated mining, restoring the environment, rehabilitating the victims and handling of illegally mined coal should be taken over by the State Authorities, to be overseen by an Oversight Committee of 12 members, headed by Additional Secretary, MoEF&CC (dealing with the environment and abatement of pollution issues) and comprising Chairman of the EA, MoEF&CC, dealing with EIA of coal mining, Chairman of Coal India, Joint Secretary, Ministry of Mining, Government of India, Director General of Mines Safety, Senior Scientist, Indian School of Mines, IIT Dhanbad, Regional Officers MoEF&CC and CPCB, Chairman, State PCB, Additional Chief Secretary dealing with the subject of mining in the Government of Meghalaya, PCCF (HoFF) Meghalaya and Additional DGP, nominated by the DGP, Meghalaya. The Regional Office, MoEF&CC, Shillong will be the Member Secretary of the Committee to coordinate the working of the Committee and to deal with day-to-day issues as per decisions of the Committee. The Committee may meet within one month, take stock of situation and plan future course of action. Its task will be to take forward compliance of judgment of the Hon'ble Supreme Court and further orders of this Tribunal for preventing unscientific and unregulated mining, handling the already mined material and all other incidental issues. At the cost of repetition, we direct that the Committee may inter alia ensure that no illegal/unauthorized mining takes place, keeping combat plan and mining mishap management plan ready to avoid*

*eventualities. Further, the Committee may take necessary measures for rejuvenating contaminated streams and rivers. The Committee will be at liberty to take assistance of any other institution/individual. The Chief Secretary Meghalaya will provide necessary logistics for functioning of the Committee. All concerned will be bound by the directions of the Committee, subject to any objection being considered by this Tribunal.”*

4. A counter-affidavit dated 12.12.2021 has been filed on behalf of the Respondent No.3, Ministry of Environment, Forests and Climate Change. Para 9 & 10 of the affidavit are extracted herein under:-

*“9. That it is humbly submitted that during the lockdown period, IRO, MoEF&CC, Shillong had received proposals from the State Government vide letter No. MG.53/2021/117 dated 24.06.2021 for afforestation to restore coal mining affected land under Meghalaya Environmental Protection Fund (‘MEPRF’ in short). The proposal letter informs regarding the guidelines for utilizing the MEPRF which was issued after obtaining approval from the Hon’ble NGT Committee. The Technical Committee so constituted has been empowered to scrutinize the proposals under the guidelines and accordingly has recommended the proposals.*

*i. The District Level Executive Committee (DLECs) have submitted proposals for afforestation for restoration of coal mining affected areas using Conventional method. The total cost estimated is Rs. 7,09,39,178/- (Rupees Seven Crore Nine Lakhs Thirty-Nine Thousand and One Hundred Seventy-Eight Only) for plantation in 224.26 ha of land across 8 (eight) districts.*

ii. *The Rain Forest Research Institute, Jorhat has submitted a project proposal on restoration of degraded coal mined land of Meghalaya through soil amended and microbial technology for accelerated succession. The total cost of the project is Rs. 58,92,000/- (Rupees Fifty Eight Lakhs and Ninety-Two Thousand only).*

*Accordingly, State Government has requested this respondent/(IRO), MoEF&CC, Shillong) to grant In-Principal approval for the proposals and the proposals may be placed before the Oversight Committee for Ex Post Facto Approval as and when conveyed.*

*10. That the proposal received from the State Government at Regional Office, Shillong was forward to Central Ministry at Delhi vide letter No. RONE/E/12-MEMBER/NGT-PANEL/2021/475-79, dated 12.07.2021, informing that the proposals have been scrutinized and approved by the Technical Committee constituted for the purpose and a request was made to consider the two proposals for approval at cost of Rs. 7,09,39,178 and Rs. 58.92 lakhs for funding under the MEPRF for taking for ex-post facto approval of Oversight Committee.”*

5. An affidavit dated 24.03.2022 has also been filed on behalf of the Applicants in terms of the order of the Tribunal dated 09.03.2022 wherein compliance in respect of illegal coal mining falling under Shallang Police Station at Goreng B. Nengchigen and neighbouring South Garo Hills, has been referred. It is stated that an FIR was filed at Shallang Police Station for apprehension of Shri Alnet Marak, Shri Clington Marak, Shri Pandit Momin, Shri Toban Marak, Shri Nazim Ali, Shri Lipson Momin and Shri Pangseng Sangma for illegal rat hole mining in Nengchigen, West Khasi Hills.

There is also a mention that one Balwant Soni alias Bhama, coal trader and four others have been arrested in a tax evasion case and, therefore, it is confirmed that these persons were engaged in illegal coal mining in the State of Meghalaya.

6. Reference has also been made to 'The Northeast News' article titled 'two coal miners from Assam die in Meghalaya' dated 17.02.2022, wherein it was reported that two persons from Assam who were working as labourers in a coal mine in the Shallang area of Meghalaya were killed due to asphyxiation. Similar reference has also been made to 'The New Indian Express' in its news article titled 'No let-up in coal mine tragedies in Meghalaya, 2 labourers die due to asphyxiation', dated 18.02.2022, regarding death of two persons of Assam.

7. An additional affidavit dated 25.03.2022 has also been filed on behalf of the State of Meghalaya, Mining and Geology Department, wherein it is stated that out of 154 cases of illegal extraction and 1642 cases of illegal transportation which have been registered in the State, charge sheet has been filed in 1462 cases, 242 cases have been returned with a final report and there are 91 cases in which the investigation is going on. It is also stated that a total of 495 persons have been convicted in different cases and only 36 persons have been acquitted in various cases, different seizures have been made in which coal, trucks, equipment etc. have been seized by the investigation officers.

8. A chart has been filed in para 4.12 of the affidavit which shows that the Police Department has registered the following cases of illegal extraction and transportation of coal which reads as under:-

<b>Sl. No.</b>	<b>District</b>	<b>Illegal Extraction</b>	<b>Illegal Transportation</b>
1	East Khasi Hills	0	20
2	West Khasi Hills	5	9
3	South-West Khasi Hills	0	0
4	Ri-Bhoi	0	163
5	West Jaintia Hills	1	15
6	East Jaintia Hills	11	101
7	Eastern West Khasi Hills	0	4
8	West Garo Hills	3	9
9	South West Garo Hills	0	0
10	North Garo Hills	0	11
11	East Garo Hills	1	8
12	South Garo Hills	0	4
	<b>Total</b>	<b>21</b>	<b>344</b>

9. The Minutes of Special Sitting of the Oversight Committee in the Original Application No. 110/2012 has also been filed along with this affidavit. The relevant paragraphs of these Minutes may be reproduced herein for proper appreciation of the case and which read as under:-

*“PARA 3. The Chairman requested the Member Secretary to give a brief introduction regarding the meeting and agenda to be discussed. The Member Secretary then gave a brief*

*statement on the status of the of the funds available under Meghalaya Environment Protection and Restoration Fund (MEPRF) as on 14.12.2021 which amounts to Rs. 366,90,90,943.25/-. A summary of the payments made by Government of Meghalaya from MEPRF to different agencies for implementation of projects approved by the then NGT Committee and the Oversight Committee are as under:-*

- i. Rs. 100 crore deposited with CPCB to be spent for restoration of the Environment (Fund Utilization not known).*
- ii. Rs. 96,59,000/- transferred to Deputy Commissioner, East Jaintia Hills District for purchase of six vehicles mounted with water tanks.*
- iii. Rs. 28,73,100/- transferred to Chief Conservator of Forests, Shillong for creation of 300 temporary poly pot nursery beds in four district of Meghalaya.*
- iv. Rs. 5,14,775/- transferred to Trinity Impex International restoration of streams through phyco-remediation method at Kyrhuhkhla river, East Jaintia Hills.*
- v. Rs. 15,00,000/- transferred to NESAC for implementation of the project identification and delineation of coal fields as well as coal mine, coal shafts, coal dumps etc.*
- vi. Rs. 32,09,500/- transferred to Deputy Conservator of Forests for restoration of environment in areas affected by coal mining in Jaintia Hills District.*
- vii. Rs. 17,05,590/- transferred to Chief Engineer, PHE for restoration of Wah Umkram stream at Suchen Village.*
- viii. Rs. 20,00,000/- by Chief Engineer for construction of rooftop rainwater harvesting structures for 10 villages covering the entire state of Meghalaya in three districts.*
- ix. Rs. 66,17,300/- transferred to Additional PCCF Social Forestry and Environment for creation of 606 beds of poly pot nursery.*
- x. Rs. 58,92,000/- transferred to RFRI Jorhat for restoration of degraded coal mine land in Meghalaya through soil amendments and microbial technology.”*

10. So far as the Action Plan for rejuvenating of polluted rivers is concerned, it is stated that the Central Pollution Control Board in 2018 has identified 351 polluted river stretches in India out of which 7 rivers are found in Meghalaya which have been polluted by various causes which includes Umkhrah, Umshyrpi, Kyrhuhkhla, Nongbagh, Umtrew, Lukha and Myntdu. It is also stated that with respect to Kyrhuhkhla river and Lunar River, the main sources of pollution was due to coal mining and due to Acid Mine Drainage (AMD). It is also stated that the Action Plan has been prepared by the River Rejuvenating Committee by identifying the polluting sources including functioning/status of STPs/ETPs/CETP and solid waste management and processing facilities, quantification and characterization of solid waste, trade and sewage generated in the catchment area of polluted river stretch. The Action Plan focuses on proper interception and diversion of sewage carrying drains to a proposed Decentralized Sewage Treatment Plant. It is also stated that the purpose of Meghalaya Environment Protection and Restoration Fund (MEPRF) is to be used for the restoration of the environment damaged on account of illegal coal mining in the State of Meghalaya and also for other necessary remedial and preventive measures with regard to the damage caused to the environment and the Committee in its 15<sup>th</sup> Sitting dated 26.06.2019 has recommended the proposal of M/s Impex International for carrying out the Pilot Project of Micro-algae treatment of the acidic water in the identified streams of Kyrhuhkhla river at a total cost of Rs. 19,19,500/- (Rupees Nineteen Lakhs Nineteen Thousand Five

Hundred only) to be paid out of the MEPRF. It is also stated that since the main cause of pollution in both rivers, namely Lunar and Kyrhuhkhla, is the discharge of Acid Mine Drainage (AMD) from multiple rat hole mines located in the catchment of these rivers and, therefore, conventional Effluent Treatment Plant System (either centralized or decentralized) to treat the Acid Mine Drainage at sources will be a huge task in terms of infrastructure and cost and, therefore, the treatment of river water by Phyco-remediation may be the most favourable and viable option. It is also stated that the Phyco-remediation exercise of Kyrhuhkhla river has been taken up and the project has been undertaken by M/s Trinity Impex International.

11. Considering the Minutes of the Meeting of the Committee, we, therefore, direct the Meghalaya State Pollution Control Board and the State of Meghalaya to take all remedial measures for rejuvenation of the polluted rivers and to regularly monitor the water quality of the river by collecting samples to check for pH and Sulfate.

12. The Mining and Geology Department, Government of Meghalaya in its affidavit dated 28.02.2022 has stated that two afforestation projects were to be undertaken;

- (i) first by the District Level Executive Committee (DLECs) for afforestation and for restoration of coal mining affected areas using conventional method and the total estimated cost for afforestation is stated to be Rs. 7,09,39,178/-

(Rupees Seven Crore Nine Lakh Thirty Nine Thousand One Hundred Seventy Eight only) for plantation in 224.26 hectares of land across 8 districts.

- (ii) The second proposal for afforestation as approved by the State Government for the consideration and sanction of Oversight Committee (OC) was one that was prepared by Rain Forest Research Institute (RFRI), Jorhat which has submitted a project proposal for restoration of degraded coal mined land of Meghalaya through soil amendments and microbial technology for accelerated succession. The total cost of this project is 58,92,000/- (Rupees Fifty Eight Lakhs Ninety Two Thousands only).

13. The Mining & Geology Department, Government of Meghalaya has further stated in their affidavit that the Oversight Committee as also the full Bench of the Hon'ble High Court of Meghalaya is also monitoring compliance of the directions of the Hon'ble Supreme Court and the National Green Tribunal with regard to illegal rat hole mining in the State of Meghalaya.

14. We, therefore, dispose of this Original Application with the following directions to the State of Meghalaya:-

- (i) Ensure completion of afforestation programme as stated in its affidavit dated 28.02.2022.
- (ii) We further direct the Divisional Forest Officer of each of the districts of all the Division/Divisions concerned shall monitor the programmes of afforestation and ensure that the land measuring 224.26 hectares of land identified for

planting across 8 districts is duly afforested by 31<sup>st</sup> December, 2024.

(iii) We also direct the State of Meghalaya to ensure that rat hole mining is completely restrained within the State of Meghalaya and regular monitoring in this regard shall be carried out by the Department of Mines and Geology, Govt. of Meghalaya and the Police Department, Government of Meghalaya from time to time.

(iv) The Meghalaya State Pollution Control Board and the Government of Meghalaya shall take all remedial measures for rejuvenation of all the polluted rivers mentioned hereinabove and regularly monitor the water quality of the river by collecting samples to check for Ph and Sulphate and upload it at regular interval on its website.

15. There shall be no order as to costs.

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**B. AMIT STHALEKAR, JM**

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**SAIBAL DASGUPTA, EM**

**Kolkata,**  
**April 11, 2022,**  
**Original Application No.55/2021/EZ**  
**AK**