

Item No. 03

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 110<sub>(THC)</sub>/2012

(With report dated 30.04.2020)

Threat to life arising out of coal mining  
in south garo hills district

Applicant(s)

Versus

State of Meghalaya & Ors.

Respondent(s)

Date of hearing: 27.07.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant(s)

Amicus Curiae: Mr. Raj Panjwani, Senior Advocate with Mr. Aagney Sail, Advocate

Respondent(s):

Mr. Amit Kumar, Advocate General with Mr. Avijit Mani Tripathi,  
Advocate for State of Meghalaya  
Mr. Raj Kumar, Advocate for CPCB

**ORDER**

1. The matter has been put up for consideration of the "Seventh Report" of the Committee appointed by this Tribunal vide order dated 31.08.2018 to oversee steps taken for compliance of directions of this Tribunal, *inter alia*, dated 17.04.2014, 31.03.2016 and 31.08.2018 for dealing with illegally mined coal, restoration of the environment and rehabilitation of the victims. We may mention that the matter is finally governed by the order of the Hon'ble Supreme Court dated 03.07.2019 reported in (2019) 8 SCC 177, State of Meghalaya v. All Dimasa Students Union dealing with the appeals against the orders of this Tribunal.

2. This order is being passed in continuation of the detailed order dated 17.01.2020 on the subject. The Tribunal considered reports of the Committee dated 02.01.2019, 11.04.2019 and 02.08.2019 mainly dealing with the Inventorisation of the illegally extracted coal and steps for its disposal, steps for restoration of the environment and preventing any further illegal coal mining.

3. The Hon'ble Supreme Court held that the mining has to be in accordance with the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act, 1957) and framed Rules thereunder as also compliant with the environmental norms under the Environment (Protection) Act, 1986 (EP Act). It was directed that the illegally mined coal may be disposed of by the Coal India Limited (CIL). The State was to hand over the said coal to the CIL for the purpose. Out of the sale price, after deducting the cost of transportation/royalty, payment to Meghalaya Environment Protection and Restoration (MEPR) fund, taxes and 10% of the value of the coal, the balance was to be disbursed to the owners of the land from where the coal was mined. The coal seized in illegal transportation was to be separately dealt with under Section 21 of the MMDR Act, 1957<sup>1</sup>.

4. Vide last order dated 17.1.2020, the Tribunal dealt with Fourth Report dated 31.08.2019, Fifth Report dated 02.12.2019 and the Sixth Report dated 03.12.2019. The Fourth Report relates to the mechanism against illegal extraction and transportation of the coal and action to be taken under Section 21(5) of the MMDR Act, 1957; action to be taken for violation of the Water (Prevention and Control of Pollution) Act, 1974 (Water Act, 1974) and EP Act, 1986 and incidental issues; utilization of

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<sup>1</sup> Paras 186 to 192 in Supreme Court judgement in (2019) 8 SCC 177

the MEPR Fund, including the amount of Rs. 100 crores directed to be transferred to the CPCB as compensation for damage to the environment on account of failure of the State to perform its duties in enforcing the environmental law. The report suggested that the State may constitute a Monitoring Committee for monthly review of action taken; formulate guidelines for procedure for exercise of power under Section 21(5) MMDR Act, 1957; exercise power under Section 23C of the MMDR Act, 1957 for preventing illegal mining; transportation and storage; file complaints for violation of the Water Act, 1974 and the EP Act, 1986; review the regulatory regime to fill gaps to prevent and mitigate pollution; develop mechanism to regulate transportation of coal; operationalize system to video record consignment of each truck passing through probable routes for illegal transportation; reward the informers about illegal mining; to have in place Coal Mine Surveillance System (CMSS) with the assistance of North Eastern Space Application Centre (NESAC); develop SOP for follow up action; dispose of the seized coal through the CIL; have plan for scientific coal mining wherever mining is feasible; execute project on treatment of acidic water; implement project for afforestation and recognition of coal mining affected land and for utilization of the amounts in the MEPR fund; utilization of amount of Rs. 100 crores for restoration of environment and video record the coal depots where coal is to be handed over to CIL is lying.

5. The "Fifth Report" mainly dealt with preventing the purchase of illegally mined coal by the Cement and Thermal Power Plants. Suggestion was to assess the gap in the quantity of coal used and purchased from legal sources. The Committee found a gap of 39.37 lakh MT from which inference of illegal 'Rat Hole' mining was drawn. It was recommended that the State should undertake study of clinker and/or power produced

by the said plants and the quantity of coal purchased and initiate action against the said plants under the MMDR, Water, Air and EP Acts, recover royalty and tax for illegally mined coal from the said plants and take steps for restoration of the environment.

6. The “Sixth Report” of the Committee dealt with in detail in the last order suggested that the State should provide to the NESAC location and other details of the dumps where coal is located. NESAC was to prepare geo-reference map of such locations. The State was to place on the website details of 32,56,715 MT coal available on various depots as noted in the Hon’ble Supreme Court order. NESAC was to undertake analysis of the areas where coal was located using high resolution satellite imageries for the relevant period. NESAC was also to make three categories of such coal i.e. (i) coal existed on 17.04.2014, (ii) coal dumped at the depot after 10.04.2019 and (iii) coal dumped between 17.04.2014 to 10.04.2019. The Tribunal in concluding para of the last order dated 17.1.2020 observed:

*“23. Without in any manner meaning to dilute the exhaustive recommendations of the Committee, the substance of the recommendations of the Committee can be summed up to include monitoring of illegal raising and transportation of coal by the Chief Secretary of the State; steps for punitive measures for illegal mining – filling up gaps in the regulatory regime; action for preventing minimizing and mitigating environment pollution by acidic water from coal depots; electronic recording of movement of coal including by way of GPS and RFID Tags and having a central server for the purpose; inspection of wings of BSF and vigilance department; establishing and supervising check posts and weigh bridges; utilization of the compensation amount for legitimate purposes in terms of the recommendations in the report; continuing Prof. A.K. Singh, nominee, IIT-ISM, Dhanbad as member of the Committee; monitoring of sourcing of illegally mined coal by cement manufacturing/thermal power plants for enforcement of mining law, including punitive and remedial actions for sourcing of illegally mined material, as found by the Committee; conducting necessary audit; study of land use and land cover analysis; drilling of bore holes in Khlihirt-Sutnga area in East Jaintia Hill District; preparation of geological report and feasibility report for scientific coal mining;*

*compiling information about location of dumps of coal; finalizing mode and manner of handling of coal and its disposal including e-auction; transfer of coal to Coal India Limited; monitoring of illegal export of coal to Bangladesh by an independent agency; adopting satellite surveillance systems; action by the State PCB for enforcement of environmental norms; verification of claims of victims and disbursement of payments to them in the manner suggested by the Committee; implementing action plan prepared by the Committee by the State PCB etc. Compliance of all the recommendations may need to be closely monitored by the Committee.*

7. The direction for continuance of Prof. A.K. Singh as a member of the Committee was later modified as he had retired and a substitute had been provided. The Chairman of the Committee was relieved and substituted by Justice B.D. Agarwal, former judge of the Gauhati High Court. The Committee was to give its next report by 30.04.2020. Accordingly, the Committee has given its “Seventh Report” on 30.04.2020.

8. We have gone through the report with the assistance of the learned Counsel appearing today. The report substantially deals with finalization of comprehensive plan prepared by the Government of Meghalaya for handing over of extracted coal to CIL for auction and measures for restoration of the environment.

9. With regard to handing over of extracted coal to CIL for auction, the recommendations of the Committee are:

*“1. The Committee approved the suggestion of the Mining and Geology Department officials for permitting transport and auction of 2 (two) lakhs MT of coal which is distributed over four coal bearing Districts in Meghalaya viz. East Jaintia Hills, West Khasi Hills, South Garo Hills and South West Khasi Hills. in the first phase. The transport and auction of the aforesaid quantity of coal has been approved by the Committee on an experimental or pilot basis. In Phase — I the Committee allows the Government of Meghalaya to hand over to Coal India Limited for auction the following quantities of coal in respect of each of the four coal bearing districts of Meghalaya:*

- (i) East Jaintia Hills - 75.000 MT
- (ii) West Khasi Hills - 50.000 MT
- (iii) South Garo Hills - 50.000 MT
- (iv) South West Khasi Hills - 25 000 MT.

3. *The Comprehensive Plan along with the Annexures shall be uploaded by Mining and Geology Department in the websites of Mining and Geology Department and the Forests & Environment Department respectively. A copy of the said Comprehensive Plan should be circulated by the Mining and Geology Department to all concerned Departments, Offices and agencies including Coal India Limited.*

**4. The Mining and Geology Department shall allow the coal owners to transport their coal to the designated depots in their respective Districts within a period of fifteen days from the date of issuance of Transit Pass to the coal owners of the designated coal depots.**

**5. The Mining and Geology Department will select the coal owners on the basis of draw of lots. However, the maximum quantity a coal owner will be entitled to bid shall be restricted to 5000 MT in the first phase of auction.**

6. *The Mining and Geology Department will intimate the commencement of auction of coal in two prominent newspapers in Meghalaya.*

7. *The guidelines prepared by the Meghalaya State Pollution Control Board in respect of pollution control norms to be observed by coal depot owners was perused and approved by the Committee.*

8. *In respect of the buyers of auctioned coal who intend to transport or sell the same within Meghalaya. A list of such buyers shall be furnished by the Mining and Geology Department to the Meghalaya State Pollution Control Board.”*

10. With regard to restoration of the environment, the commendations of the Committee are:

*“1. Clause A of the Action Plan which relates to prevention of human and animal deaths by accidental falling in coal mine shafts comprises various subcomponents. With respect to clause A.1 - identification and delineation of coal fields as well as each coal mine coal shaft coal dump etc. in continuation with the earlier similar exercise initiated by NESAC they are requested to furnish a detailed cost estimate for preparation of such maps for the remaining districts viz., West Khasi Hills. South Garo Hills and South West Khasi Hills and submit a report to this Committee before the date of next sitting of the Committee.*

2. Education Department may furnish a status report on the progress of implementation of A2 of the Action Plan which relates to creation of awareness about ill effects of illegal coal mining and also furnish information on the status of submission of APOs to the Committee notified in the guidelines for utilization of MEPR fund for their further processing of the same.

3. A.3 of the Action Plan which relates to installation of sign boards in areas having presence of coal mines was reported to have been implemented by the Mining & Geology Department.

4. With respect to A4 of the action plan- Erection of physical barriers at periphery of shafts of mines where coal reserve has not been exhausted-the Deputy Commissioners of all Districts shall submit a report on progress on erection of physical barriers at periphery of shafts of mines where coal reserves have not been exhausted by the mine owners and steps taken by the District Administration to obtain such proposals from the mine owners who have not embarked on any such activity.

5. With respect to A5 of the action plan — Closure of shafts of mines where coal reserve has already been exhausted - Mining & Geology Department shall submit through an appropriate APO the further fund requirement for the purpose of installation of sign boards in areas having presence of coal mines to the concerned Committee notified in the guidelines for utilisation of MEPR fund. The Department shall also submit APOs incorporating other requirements to the Committee notified in the guidelines for utilisation of MEPRF. The Deputy Commissioners shall take steps to create awareness on erection of physical barriers around the coal shafts where the reserves are exhausted.

6. In respect of item A.5.1 of the Action Plan- Controlled blast to secure closure of shafts of mines where coal reserve has already been exhausted- the Member Secretary of Meghalaya State Pollution Control Board (MSPCB) is requested to intimate CIMFR —CSIR to give a power-point presentation on the matter to the Committee on the next date of its sitting. The Deputy Commissioners of the districts affected by coal mining shall furnish an appropriate report to the Committee on this matter before actually proceeding with controlled blasting. The Member Secretary, Meghalaya State Pollution Control Board is requested to submit a status report on development of safe and cost effective control blasting techniques in Meghalaya and the progress made by CIMGR-CSIR in this regard. The presentation of the CIMFR- CSIR during the next sitting of the Committee as referred above shall cover the techniques which could be applied in Meghalaya to secure controlled blasting. The Director DMR is requested to identify at least one abandoned coal mine where a pilot project can be undertaken by CIMFR-CSIR in respect of the safe and cost effective technique of control blasting and intimate the Committee on its next date of sitting.

7. Component B of the action plan relates to prevention of Acid Mine Drainage (AMD) through various devices. B.1 refers to coal dumps of cement factories and their captive power plants. The components B.1.1 to B.1.3 are as follows:

- i. *Covering of dumps by permanent sheds/ water proof tarpaulin*
- ii. *Construction of garland drains along with acid mine drain storage tanks*
- iii. *Treatment of acid mine drain collected in storage tanks*

*The Deputy Commissioners of East Khliehriat and Ri Bhoi Districts where cement factories and captive power plants are set up shall direct the cement factories and captive power plant owners to develop such devices and obtain a road map from each of them in this regard and submit the same to the Committee within two months.*

8. *With respect to item B.1.4 relating to amendment of Environmental Clearance (EC) already granted to the above mentioned cement plants and captive power plants to stipulate additional conditions in such ECs to provide for above measures incase such measures have not been stipulated. a status report on the implementation in this regard shall be furnished by the Member Secretary SEIAA and the Regional Office for North East region of MoEF&CC, Shillong.*

9. *With respect to item B.1.5 — Revocation/withdrawal of EC and launch of prosecution in case of non-implementation of aforementioned measures-it was reported that action has already been concluded by the MPSCB. A report in this regard may be submitted by MSPCB to the Committee before the next date of sitting of the Committee.*

10. *With respect to item B 1.6 — Revocation/withdrawal of CTE and launch of prosecution in case of non-implementation of afore-mentioned measures - it was stated by the Member Secretary MSPCB that there was no instance of withdrawal of CTE since all units which were directed by the MSPCB for compliance have complied.*

11. *Item B.2 relates to dumps of assessed coal. The sub-items are as follows:*

- i. *Covering of dumps by water-proof tarpaulin/ permanent sheds*
- ii. *Construction of garland drains along with acid mine drain storage tanks*
- iii. *Treatment of acid mine drain collected in storage tanks*
- iv. *Promulgation of order under section 144 or any other relevant Section(s) of Cr. P.C. to prohibit open/uncovered dumping of assessed coal*

*Sub items (i) to (iii) are to be implemented by the plant owners. The Deputy Commissioners of all Districts where occurrence of coal mining is noticed are requested to furnish status report within one month on the implementation of item B.2 to the Director of Mineral resources who in turn shall in turn submit a report to the Committee in this regard within two months.*

12. *With respect to item B.3 —Dumps of seized coal- the Director of Mineral Resources is requested to submit APOs within two weeks to the Committee notified under MEPR detailing the fund*



requirement to secure implementation of the sub-items listed under this item. The sub-items of B.3 are as below:

- i. Construction of permanent depots for seized coal
- ii. Covering of dumps by tarpaulin/ permanent sheds
- iii. Construction of garland drains along with acid mine drain storage tanks
- iv. Treatment of acid mine drain collected in storage tanks

13. B.5 relates to insulating coal while in transit. The sub-items are:

- i. Covering of coal by waterproof tarpaulin while its transportation by road
- ii. Seizure of trucks carrying coal without covering it with waterproof tarpaulin
- iii. Promulgation of order under section 144 or any other relevant section(s) of Cr PC to prohibit open/uncovered dumping of assessed coal

The Deputy Commissioners of all coal mine affected districts are requested to furnish status report within one month on the implementation of item B.2 to the Director of Mineral resources who in turn shall in turn submit a consolidated report to the Committee in this regard.

14. With respect to item B.6- Rat hole coal mine openings-deliberation is postponed till CIMFR-CSIR make presentation in this regard to the Committee.

15. With respect to item B.7- Coal mine shafts located in river/ stream bed-deliberation is postponed till CIMFR-CSIR make presentation in this regard to the Committee.

16. With respect to item C which deals with restoration of water quality in rivers/streams affected by Acid Mine Drains (AMD) the Chief Engineer, PHE is requested to submit status report on implementation of item C.1- Identification and prioritisation of rivers/streams to be restored- and a road map for full implementation of the same to the Committee before its next date of sitting.

17. With respect to item C.2- Development refinement and transfer of AMD treatment technology- Professor O. P. Singh, NEHU is requested to make a presentation to the Committee on the day of its next sitting along with a report on the pilot project run by his team in this regard. The Mining & Geology Department suggested that an independent monitoring agency, in respect of which MSPCB is currently suitable, be requested to monitor the progress and success of the three pilot projects currently underway in respect of item C .2 and submit the same to the Committee within two months.”

11. We proceed to deal with the above recommendations. We find that recommendation of permitting **‘coal owners’** to transport the coal and for **such coal owners to be identified by the State by draw of lots** is

contrary to the judgment of the Hon'ble Supreme Court. Under the said judgment, it was observed that coal owners had already been identified as per record and that process of handing over coal was to be undertaken by the State. The quantum of coal unscientifically mined was mentioned to be 23,25,663.54 MT (para 188). It was held that the said coal be handed over to CIL for disposal by the State in the manner laid down by the Committee. Out of the sale price, an amount could be paid to the owners, as already mentioned above (para 192 of the judgement). The suggestion of the Committee that **the coal owners may transport the coal and coal owners are yet to be identified by draw of lots** is against the judgment of the Hon'ble Supreme Court wherein it is mentioned that coal owners were already identified and that it was the State which was to hand over the coal to the CIL. Further, as per "Sixth Report" of the Committee quoted in para 19 of the last order dated 17.01.2020, the State was to provide the location of the places where coal was located to NESAC. NESAC was to prepare a geo-reference map and provide the same to CIL. NESAC was also to undertake analysis of the area where coal was to be handed over to CIL, using high resolution satellite imageries for the period in question.

12. As against the above, the Committee has now observed that the recommendations in the Sixth Report are unworkable for certain period. We are of the view that the said issue having already attained finality, there is no reason to reconsider the requirement of such exercise. However, if NESAC is not able to undertake the said exercise, the same may be entrusted to National Remote Sensing Centre (NRSC), Hyderabad. The CPCB may coordinate with the NRSC for the purpose.

13. The recommendation that the transportation may not be done by the State but by the 'coal owners' who are yet to be identified being against judgment of the Hon'ble Supreme Court cannot be approved. The State must transport the coal and give the locations in terms of the Sixth report. New exercise for identifying landowners beyond the judgement of the Hon'ble Supreme Court is not permissible. The Committee may revise its report accordingly.

14. As regards restoration plan, the remediation plan may be duly executed which may be supervised by the Committee. The steps suggested by the Committee may be taken. With regard to item no.10 relating to withdrawal of CTE, it is not clear whether any CTE had ever been granted. If no CTE had been granted, question of withdrawal did not arise.

15. The Committee may continue its functions including that of overseeing the remediation plan and furnish its report of status as on 31.12.2020 by 15.01.2021 by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

List again on 28.01.2021.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

July 27, 2020  
Original Application No. 110(THC)/2012  
DV